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COVER NOTE

From:	General Secretariat of the Council
To:	Delegations
No. prev. doc.:	CM 2361/23; 7517/23; ST 7512/23
Subject:	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL concerning the status of third-country nationals who are long-term residents (recast) - compilation of replies by Member States

Following the request for written contribution on the above-mentioned proposal (CM 2361/23), delegations will find in Annex a revised compilation of the replies as received by the General Secretariat.

This revision (REV 2) includes contribution received from Lithuania.

ANNEX

Written replies submitted by the Member States

AUSTRIA

QUESTIONS ON NATIONAL PERMITS OF PERMANENT OR UNLIMITED VALIDITY

Regarding your questions on *national permits of permanent or unlimited validity*, please note that we do not have such permits, hence the questions can't be replied to.

Art. 3 para. 2 letter e: Reservation.

Austria does not see the issue of legal uncertainty regarding the wording "formally limited residence permits". The provision is implemented in the national law in Austria with a clear scope of application and exceptions. In concrete, Austria has provided formally limited residence permits in cases of an intended stay in Austria for more than six months for the purpose of performing certain paid employment activities with a specific employer:

- crew members in cross-border maritime and inland navigation;
- activities in the framework of education and training or research programmes of the European Union;
- activities as exchange teachers, language assistants as well as language assistants at teaching institutions and universities within the framework of intergovernmental agreements and exchange programmes;
- foreign students and graduates within the framework of a reciprocal exchange programme, provided that the exchange is handled by associations of which either an Austrian higher education institution is a member or which operate in cooperation with an Austrian higher education institution;
- employment as an au pair for a maximum of twelve months for third-country nationals between 18 and 28 years of age;
- trained speciality chefs and top chefs in the upscale gastronomy from China for a maximum period of three years, provided reciprocity is granted.

Another not unremarkable group of third-country nationals whose residence is formally limited are Turkish nationals who derive rights from Art. 6 (1) and (2) of Decision No 1/80 of the Association Council established by the association agreement between the EEC and Turkey. In case of the proposed deletion, this group of third-country nationals might then be directly eligible to the long-term resident status after only acquiring rights under the first two sentences - one (or three) year(s) of continuous lawful employment – which would probably lead to a significant increase in applications and therefore a risk of a massive increase of the administrative burden.

Art. 3 para. 2 letter g: Austria welcomes the explicit exclusion of this group of third-country nationals within the scope of the Directive.

Art. 4 para. 1 and **2:** Reservation**.**

In general, it is explicitly welcomed that the proposal kept the five years residence for acquiring the long-term resident status. Furthermore, the considerations of the Presidency are understandable and can in principal be supported. However, the fact that periods of presence that are not within the scope of application of the Directive have to be taken into account in their entirety is viewed extremely critically. Compared to the current Directive, this affects many more cases in which the third-country nationals concerned did not intend to stay in the Member State or in the EU for a genuinely longer period of time, which is why, for example, no integration requirements had to be fulfilled. The rule of 2+3 years suggested by the Presidency therefore needs to be examined in more detail.

Regarding control measures, it must be said, that in Austria, residence title for investors do not exist. Moreover, residence permits in Austria have to be applied for in person, which applies to both initial and renewal applications. In order to ensure, that the person is resident in Austria. In addition, controls take place for example in the form of enquiries in various registers (such as registration register and regarding social insurance).

Art. 4 para. 3: Reservation.

The proposal of cumulating periods of residence, is viewed in general critically. In case the residence is to be cumulated from different Member States, it cannot be guaranteed that the residence has been continuous in the sense of Art. 4 (1) and there may be interruptions as well, especially as a continuous issuance of residence permits by authorities of different Member States cannot be assured. The Presidency's proposal, only to consider residences according to certain listed EU Directives is basically comprehensible, with regard to the verification of the legal residence. Nevertheless it raises the fundamental contradiction that precisely stays, that were not intended for a longer-term duration entitle to the acquisition of the EU long-term resident status (here in particular with regard to seasonal workers and ICT, in particular for the latter, as there is a maximum duration of stay already foreseen mandatory according to the ICT-Directive). Therefore, the possibility of cumulating periods of residence in different Member States in general still requires a closer examination. At this point it is also worth repeating, that an effective enforcement by the authorities without too much administrative burden is of central importance for Austria. In this respect, the Commission's statements at the last IMEX meeting on the 28th March (regarding the policy approach) are not convincing. A provision must also be enforceable in the Member States, otherwise there is no added value for recasting the particular provision. As mentioned in previous meetings, an important monitoring tool, namely the stamping of the passport, will be removed by the EES. This already impedes the control of stays in one's own Member State, so how should it then be possible for the authorities to check stays in other Member States?

Art. 5 para. 1 letter a: Reservation.

In principal Austria welcomes the deletion of *also made available by a third party* as well as the clarification in recital 11. Nevertheless, it is still seen critical that resources, provided by a third party have to be taken into account without further requirements. In any case, it must be ensured that a simple promise by a third party is not sufficient for providing evidence.

Art. 5 para. 2: The reintroduction of the evidence of appropriate accommodation is expressly welcomed.

Art. 5 para. 3 and **Recital 12:** Reservation.

With regard to Art. 5 (3) and the corresponding new recital 12: It states *"However, the means for implementing this requirement should not be liable to jeopardise the objective of promoting the integration of third-country nationals, having regard, in particular, to the level of knowledge required to pass a civic integration examination, to the accessibility of the courses and material necessary to prepare for that examination, to the amount of fees applicable to third-country nationals as registration fees to sit that examination, or to the consideration of specific individual circumstances, such as age, illiteracy or level of education."*

The drafted text might give the impression that the mentioned circumstances automatically lead to an exemption from integration measures. Austria is already taking into account the individual situation of a person, when it comes to permanent illnesses or handicaps. However, in Austria's view, illiteracy or retirement age does not per se constitute an exemption, overcoming illiteracy is usually possible (e.g. through literacy courses). The fulfilment obligation period may be extended upon request by the competent authority. Especially with regard to the significantly increasing share of beneficiaries of international protection that needs literacy training it would not be conducive to integration to exclude this group from integration measures and their duty to make an effort altogether. It is therefore suggested to delete the underlined part or clarify in the above sense.

In addition, it is suggested that the Directive reflects the importance of the acceptance and the respect of the fundamental values of a European and democratic state, by adding to Art. 5 and/or in Recital 12 or 13: "Member States may also take into account the commitment of the third-country national to the social, economic and cultural life in the respective Member State, including to the fundamental values of a European democratic state and its society."

Art. 7 par. 1 and **2:** Reservation.

The deadlines mentioned in the case of a required exchange of information with other Member States still need to be examined in more detail. With regard to the last sentence in paragraph 2, the question arises as to the meaning of *shall* in this context. At the IMEX meeting on 28th March, the Presidency replied, that the EU long-term resident status can in any case only be granted if it is sufficiently ensured that the required evidence is available, otherwise the application will be rejected, which is supposed to be possible for the Member States under national law. The inclusion of such a reference would be helpful in clarifying this issue.

Ad Article 9 para 1 lit c: Reservation.

For Austria it is crucial, that in order to maintain the long-term resident status, an additional criteria to the presence is required, otherwise an extension to 24 months has to be opposed. The situation in Austria is also special because we do not issue national long-term resident titles. Thus we already see a certain practice among presence and absence of third-country nationals, especially with regard to medical care or social benefits. The proposal of the Presidency regarding the 24 months absence within five years is basically welcomed, whether this criteria (instead of life interests) represents the right approach still has to be further examined. It is still unclear, when the five year period starts and whether, according to the Presidency proposal, only a single absence or repeated absences would be covered as well. If the latter is the case, difficulties regarding the control by the authorities would arise, especially since travel documents are hardly ever stamped (and a control of presence or absence otherwise than with stamps will be hardly feasible).

Art. 9 para. 6: Reservation.

Austria appreciates the changes in Art. 9 (6) in general. However, the fact that integration requirements can no longer be demanded after a third country national has been absent for e.g. four years is viewed critically (example: a third country national has been consecutively absent for more than 24 months – therefore loses his EU long-term-resident status – then stays absent for another two years). Especially in the case of longer absences, it is very likely that language skills, or European values, acquired years prior, are reduced. Therefore, it is suggested that Member States shall have the option to demand integration measures after the consecutive absence of more than 24 months.

Also, Member States shall always be able to take into account the commitment of the third-country national to the social, economic and cultural life in the respective Member State, including to the fundamental values of a European democratic state and its society. Especially if the EU long-term resident status has been lost due to fraudulent behaviour or a serious threat to public security (Art. 9 (1) (a) and (b)), (new) integration measures, such as appropriate value courses - or of course language courses if the prior language requirement had been acquired through a forged certificate - would be essential.

Art. 12 para. 3 letter a and **Recital 20:** Reservation.

The new recital 20 and Article 12 (3) (a) of the proposed recast of the long-term residence directive 2003/109/EC are essential to safeguard the system and the organisation of regulated professions in the Member States and are therefore strongly welcomed. This Directive shall not only affect the conditions for the pursuit of but also those for the access to regulated professions laid down in national law. The last sentence of recital 20 therefore should be supplemented and clarified as follows: *"This Directive should be without prejudice to the conditions set out under national law for the access to and the exercise of regulated professions."*

Art. 15 para. 1 and **Recital 27:** Reservation.

Austria is very critical towards a quasi-automatic acquisition of the long-term resident status of children born or adopted in the territory of the Member States, especially since there is a high risk of abuse with regard to adoptions. In this regard, Austria also supports the concerns of other Member States expressed at the IMEX meeting on the 28th March, that an automatic acquisition of the long-term resident status of children born or adopted in the Member States may nevertheless result in the fact, that children of one family may have different residence statuses, depending on where they were born (adopted). Insofar as the Commission bases the proposal on this consideration (to avoid different statuses of children), Austria does not comply with it. Furthermore, Austria sees an unequal treatment vis-à-vis children of EU citizens who have to reside in the Member State for five years according to the Free Movement Directive (2004/38/EC). The Commission did not provide any material justification for such unequal treatment, moreover such a justification is not seen. Therefore, an assessment of the Council Legal Service would be of great interest.

Art. 15 para. 2 and **Recital 26:** Reservation.

With regard to Art. 15 and the new corresponding recital 26 it may be noted that according to Austria's understanding, integration measures for family members are of utmost importance. It should therefore remain at the discretion of the Member States to require basic integration measures prior to entry. Family reunification should not constitute an exemption, as this is to ensure that third-country nationals who do not wish to stay in Austria on a merely temporary basis should be able to participate in society in Austria from the very beginning. Basic skills of the official language are the first steps and key to orientation and communication in Austria. This shall prevent isolation and empower the third-country national to fulfil his/her basic needs independently, also when it comes to accessing support services in the event of violence in the family. Austria is concerned that the waiver of the requirement to demonstrate basic language skills at the stage of application endangers family members of becoming socially and economically dependent to EU long-term residents. Especially women could be at risk of becoming isolated within their households, which affects not only them but also the integration path of their children.

It is therefore suggested to delete Art. 15 (2) as well as the corresponding recital.

BELGIUM

Belgium has not yet established formal political positions on all aspects of the recast proposal. However, for Belgium, important principles in the negotiation of this text are the pursuit of administrative simplicity (in view of transposition into national law), realistic processing times and creating added value.

ST 7512/23 & ST 7517/23

Article 3

Answering question 1 and 2 in the discussion paper, Belgium has no issues with the deletion in point e) and supports the addition of the category in point g). Thus Belgium can accept the text as it is in ST 7517/23. In order to improve the coherence and the administrative simplicity of this directive, we would propose to rewrite article 3 paragraph 2 in line with the structure used in the single permit directive and other recent legal migration instruments, adding EU legal references and – if relevant – clarifying the scope of some categories.

Article 4

Belgium would like to stress the importance of this article and therefore the importance of its coherence and practical approach, as well as the administrative simplicity.

Paragraph 1 and 5 & question 3 discussion paper.

Regarding to periods excluded from taking into account for the purpose of calculating the period referred to in paragraph 1, **Belgium is not in favor of the proposal made by SE PRES in ST 7517/23**. Belgium sees no added value in differentiating the applicable rules for the first two years and those for the following three years, **we wish to have the same rules for the whole period of five years**.

We are ready to further analyze which periods should be excluded for the purpose of calculating the period of five years. We can aspire to go along to some extent with the Commission's efforts to exclude fewer types of residence than before, thus facilitating access to LTR. For the sake of legal clarity, in the next compromise proposal the PRES should in our opinion work on the basis of the old paragraph 2 in directive 2003/109 or the new paragraph 5 in COM recast proposal.

Paragraph 2 and Question 5 of the discussion paper.

Belgium has a population register where we keep data of the residence of both nationals, Union citizens and third- country nationals. This allows us to verify their legal and continuous residence.

Paragraph 3 and question 4 discussion paper.

Belgium is not against a system that uses accumulation of residence in different Member States as long as this system does not impose a high administrative burden upon the authorities of the Member States.

Belgium recognizes that the proposals made by SE PRES in ST 7517/23 in article 4 para 3a, only referring to residence in other Member States with a permit issued under EU legal migration directives, and in article 7 para 2 linking the processing time and consultations between member states, are significant steps in the right direction to reduce the administrative burden. We can also agree on your proposal in article 4 para 3b.

However, at the moment, in the absence of the facilitation of the practical implementation of this mechanism promised by the European Commission in the context of the negotiations on the blue card recast, we still fear that due to the larger number of applications and the higher risk of non-compliant applications in the scope of this directive compared to the scope of the blue card directive the necessary structural exchange of information between member states would create a large amount of administrative burden, since there is no existing EU database that could serve this purpose. Therefore, we look forward to the initiatives announced by the Commission in order to evaluate and improve the functioning of EU-mobil. **In order to be able to accept the accumulation of residence in different member states, Belgium needs more legal and practical safeguards regarding the practical implementation of the mechanism.**

Article 5

Belgium supports the move of the possibility of providing stable and regular resources by a third party from paragraph 1a to recital 11. ST 7517/23 as well as the original COM proposal leave sufficient national discretion to assess these concrete applications.

We could accept the changes made in paragraph 2 as long as this remains a may-provision.

Article 5, para 4 / Article 7, para 4 / Article 10, para 3 / Article 11 / Article 12, para 7/ Article 14 / Article 15, para 5 : level playing field - provisions

Belgium keeps a study reservation concerning all provisions which are part of the package of provisions that aim to create a level playing field between the EU-status of long term-resident and the national statuses of permanent or unlimited validity. We follow the evolution of negotiations on this aspect and the practical implications the level playing field would have, in order to assess whether the level playing field would be acceptable to us. Therefore Belgium is unable to answer question 6 in the discussion paper.

Article 7

As already stated above, Belgium thanks the SE PRES for the modifications in paragraph 2 in ST 7517/23, regulating the consequences of consultations between member states on the processing time.

As already stated above, Belgium holds a study reservation for article 7, paragraph 4. At the March 28 IMEX meeting we heard the explanations of SE PRES for the proposed modifications . For the sake of clarity, **we would like to ask the PRES to add a similar time-limitation** as the one that was inserted in article 9, para 6 by the PRES.

Article 9

Due to the context created by the ruling of the Court of Justice in case C-432/20, **Belgium has not yet established a political position on article 9 paragraph 1c** and is unable to answer question 7 in the discussion paper. Regarding the proposal made by SE PRES in ST 7517/23 and answering question 8 in the discussion paper, **Belgium cannot agree with the current text since it would only make it more difficult in terms of practical implementation**. We are of the opinion that the verification and calculation of the different periods of absence outside the EU will be very difficult and will impose a big administrative burden upon the authorities of the Member States.

Article 12

Answering question 9 of the discussion paper, Belgium does not support the PRES proposal in ST 7517/23 to reinsert the derogation permitted by article 12 paragraph 2 and prefers to keep the deletion and wording proposed by COM in original recast proposal.

Article 15

Concerning paragraph 1 and answering question 10 of the discussion paper, Belgium supports the provision that provides children of long-term residents, born or adopted in the Member State, to be granted LTR status without being subject to the conditions set out in Articles 4 and 5 of the directive, this is in line with our national practice. However, **Belgium would like to ask SE PRES to add in the recitals that 'child' in the sense of article 15 of this directive is to be interpreted in the light of the directive 2003/86/EG and means less than 18 years old.**

We support the prolongation of the term in paragraph 3 of this article to six months, as well as the addition of a reference to a complete application. If possible, Belgium would like to extend this term even longer.

QUESTIONS ON NATIONAL PERMITS OF PERMANENT OR UNLIMITED VALIDITY

Does your Member State have national residence permits of permanent or unlimited validity? If yes, please list the relevant schemes?

Yes. Belgium has two national residence schemes for third country nationals (hereafter: TCN) which provide for a residence permit of permanent or unlimited validity. The first one is "the settlement status". A TCN who benefits from this status holds a so called C- or K-Card[1] as proof of their valid stay.

The second one is the national residence scheme of unlimited stay (B-Card). This residence permit of unlimited validity is issued to TCN who already hold a residence permit of limited validity, and who resided legally in Belgium for a certain period. For some categories of persons this period is determined by law, for other categories it is the competence of the Belgian Immigration Office based on their 'discretionary power' to decide whether the TCN is eligible for the B-card. In practice, eligibility will be checked by the Immigration Office each time a person applies to renew their residence permit of limited validity.

In the next questions, we will only discuss the residence permit which corresponds with the settlement status (C- or K-Card), given that this permit is in competition with the EU long-term residence status and is therefore relevant. The residence permit of unlimited stay (B-Card) is not relevant in this respect, since it does not concern a separate application procedure for a residence permit.

Are these schemes targeting specific categories of third-country nationals? If so, which categories?

No, these schemes are open to all TCN in general, once they fulfil all conditions.

[1] Since 11/10/2021 the C-Card is replaced by the K-Card. C-Cards are still valid until they expire.

What is the aim of such schemes?

The aim of the national scheme of the settlement status is to allow TCN to obtain a permanent residence permit and to subscribe them into the Belgian population register instead of in the aliens register. As these persons are deemed to be integrated in a sustainable manner in Belgium, no conditions of sufficient means of subsistence and/or health insurance are imposed. They will obtain their residence permit without having to fulfill complex substantive requirements on the basis of an uncomplicated application procedure.

Which requirements need to be fulfil to be granted such permits (incl. duration of residence)?

In order for a TCN to obtain a permanent residence permit based on the settlement status, he/ she needs to fulfill some basic substantial and procedural requirements:

- the TCN must hold a residence permit of unlimited stay.

- the TCN must prove having stayed legally and continuously on the Belgium territory for the past five years. There are off course some exceptions to the term continuously as the applicant may for example leave for vacation during that period, but going into the details would lead us to far.

- the TCN must prove its identity via a valid ID card or a valid passport.

To get permanent residence based on the settlement status, a TCN must also fulfill some procedural requirements. First of all he/she needs to apply for the settlement status by submitting a specific application form (template) at the local authorities. The local authorities will hand over an acknowledgement of receipt to the TCN and will send the application to the Immigration office. The Belgian Immigration Office has to examine the application and must decide on the application within five months after submitting the application. If other conditions are fulfilled, the application can still be rejected for reasons of public order or national security. If the application is approved, he/she will be inserted into the population register and be issued a K-card. If not, the local authorities will inform the TCN of the rejection of the application.

The C- or K-Card itself has a validity of five years. As holder of a residence permit of unlimited or permanent validity, the renewal of this residence permit is just a formality without any real conditions or requirements except the verification that the TCN is according to the population register still having its main residence in Belgium.

Which rights are associated with such permits?

In the preceding questions, following aspects of the application for a residence permit for the settlement status were already discussed: the admission conditions, the procedural modalities, the validity of a residence permit. Another migration aspect worth mentioning is the fact that a TCN who holds a valid residence permit of both national residence schemes discussed above is entitled to leave Belgium and return in a period of one year.

Concerning the aspects covered in the provision of equal treatment in Article 12 of COM proposal recasting EU-directive 2003/109, it can be stated that TCN who have a residence permit according to the two above discussed national schemes of unlimited or permanent validity, have in general the same rights as Belgian citizens. Exceptions could occur regarding certain aspects, however, at first glance, the most relevant difference is a restriction to access to social assistance for TCN only holding a residence permit of unlimited stay.

To be complete, TCN holding a national residence permit of unlimited or permanent stay have the right to vote at local elections and benefit from a simplified procedure to acquire Belgian nationality.

CROATIA

A more detailed opinion on the Proposal for the Directive:

1) Article 3 Scope

We can accept the introduction of new point (g) to be excluded from the scope, namely third country nationals whose removal has been suspended on the basis of fact or law.

However, there is a question regarding the wording "on the basis of the fact…"-how can removal be postponed on the basis of a fact. We are of the opinion that formal decision needs to be made as regards the removal and the suspension of removal.

2) Article 4 Duration of residence

As this provisions are one of core elements of proposal, we believe that proposed legal text should be clear and straightforward, to avoid any wrong interpretations in the future.

Paragraph 1

We can support the idea that in one MS, **additional residence periods that are excluded form the scope** (as defined in Art. 3(2)) could **still be counted towards 5 years of legal and continuous residence**, once third country national **has a title of residence which enables him to be granted „EU long-term residence".**

This would be especially true for category of **students,** which are currently excluded from scope, but with possibility to count only half of that period. We would strongly be in favor to **count full periods of successful studying in MS towards „EU long-term residence".**

We could not support the proposed text, as it seems it excludes even more that the current text the periods of legal residence of students.

We propose to introduce a "may clause", in order for MS to have full flexibility as to what residence periods from 3(2) point a), b), c), e) would count towards „EU long-term residence". This would make it possible for MS to attract talents to EU, while still having full flexibility to decide the categories that it wishes to attract.

We would like to hear a more detailed explanation from the Commission of rationale of including the residence of seasonal workers or ICTs , in the counting of residence required for granting „EU long-term residence", since their stay under respective Directives is a temporary one. Because seasonal workers are limited per maximum 9 months in 12 months, how would their residence even be counted towards 5 years having in mint thin time limit. How would this interact with requirement of continuity? When would their stay be continuous in cases of limitation of residence for 9 months in 12 months?

Also, cross-border provision of services-as this third country nationals are not integrated into labour market of the MS, therefore what is the rationale to also include their residence.

Paragraph 3 Accumulation of periods

In relation to the accumulation of periods in other MS, we believe that it should be emphasized primarily that the goal of the Directive is integration into the country who was host MS, which seems somewhat challenging with the introduction of this provision.

Additional challenges exit in interpretation as to second MS has to recognize period of residence in first MS when they were an optional categories in implementation (such as au-pairs, MS 1 introduced the category, MS 2 did not).

We also see challenges in the transmission and implementation of this provision when it comes to the exchange of information between MS, especially considering that EU MOBIL is not a mandatory tool for data exchange. Possible challenges include in particular checking the periods of absence from the territory of other Member States (whether the general periods of absence are applied and how) and the implementation of the procedure for issuing a long-term residence permit with regard to shortened periods. **There should be no additional burden on MS.**

The proposed provision also puts students in situation that is a step back.

Therefore, we would not be in favour of this provision.

3). Article 5, Para 1 Conditions for acquiring EU long-term residence status

Does recital 11 also covers situation of third parties if this third parties live in third countries?

Article 5 Para 4

As regards para 4. and the deletion of "**level playing field" in this regards, we fully support this deletion. As we have already pointed out,** two statuses are not comparable, nor they are competing with each other. Therefore re-considering additional guarantees; as well as promoting EU mobility that the EU long-term residence status brings, already provides an added value (especially EU mobility) when compared to national statuses of permanent residence (that do not allow such mobility). Therefore, the.

What we consider important is that TCNs **have timely and accessible information about the advantages of one or another status, so that they can decide independently and in an informed manner which status they want.**

However, we would still hold scrutiny reservation on all other provisions connected to "level playing field".

We would like to emphasize that **national permanent status in the Republic of Croatia refers to very specific cases and specific category of persons** who are granted national permanent residence of unlimited validity.

These categories include, inter alia, third-country national who is:

a) **a family member or a life partner of a Croatian citizen** who previously had four years of residence for the purpose of family reunification;

b) **a member of the Croatian people with foreign citizenship** or who is stateless and proves his status with a certificate issued by the state administration authority for Croats abroad if it is established that he has returned with the intention of residing permanently in the Republic of Croatia, provided that he has had granted temporary stay for an uninterrupted period of three years prior to the day of submission of his application

c) **is a minor child** who has had granted temporary stay for the purpose of family reunification for an uninterrupted period of three years prior to the day of submission of his application, **and one of the parents has had granted permanent stay or long-term residence**

d) **is a minor child living in the Republic of Croatia**:– one of whose parents had granted permanent stay or long-term residence at the time of his birth, with the consent of the other parent or -– one of whose parents had granted permanent stay or long-term residence in the Republic of Croatia at the time of his birth while the other parent is unknown, deceased, declared to be deceased, deprived of parental care or fully or partially deprived of legal capacity with regard to parental care.

The conditions for granting national permanent residence do not include for example, an integration requirement (i.e. a language test) nor proving the means of subsistence of proof of sickness insurance.

Another question regarding the national **permanent stay or EU long-term residence, that needs to ne clarifies; is the issue of double statuses, i.e. if a person from national permanent status wishes to apply for EU long-term status and benefit from EU mobility-is it possible to have both statuses at the same time, i.e. does Directive on EU LOTR excludes this.** These cases could occur if national permanent residence permits require shorter period of continuous residence, and TCN applies, after acquiring such national residence, for long-term residence status.

4) Article 7 – Acquisition of EU long-term resident status

In relation to paragraph 2, subparagraph 3., there should be a clear answer as to whether omitting to reply in a deadline od 1 month constitutes or not a breach of Directive. If so, there should be a deadline of at least two months.

In paragraph 4. We suggest adding “where applicable” in the end of the sentence.

5) Article 9 – Withdrawal or loss of status

> On absences-we have no objection to 24 months, but we think the loss of status should be better addressed in situations when occasional (tourist) visits or even transit through the MS interrupt this period. We should include reference to the notion of “center of life interests” within EU.

Furthermore, when determining the **conditions for the termination** of the long-term residence status, we suggest adding point "d) at own request", since in practice we have such cases, where the parties, due to the exercise of some other personal rights in their home countries, demand the termination of the status.

CYPRUS

Cyprus Written Contributions on Articles 1-15

Article 1-3

The current LTR Directive excludes several categories of third-country nationals, for example third country nationals who reside solely on temporary grounds such as au pair or seasonal workers or as workers posted by a service provider for the purposes of cross-border provision of services, or as cross-border providers of services or in cases where their residence permit has been formally limited (Article 3(2), point (e)).

In its recast proposal, the Commission proposed a deletion of "or in cases where their residence permit has been formally limited" with the motivation that its interpretation led to legal uncertainty in the transposition and implementation by Member States. Several Member States have raised concerns regarding this deletion.

Cyprus does not have any sort of concerns about this deletion.

Concerning Article 3(2)(g) , the Swedish Presidency proposes to include another group of people who are excluded from the scope of the Directive, those whose removal from the MS in which they reside has been suspended based on factual or legal evidence and they are granted a temporary residence permit.

The Republic of Cyprus supports the above proposal for the inclusion of this group.

Article 4

According to the current Directive, in order for a third-country national to secure the status of a long-term resident, a period of residence of 5 years is required in the MS to which he applies.

In the Commission's recast proposal of the Article 4(3) considers that the sum of the five years should be the result of cumulative periods in different MS provided that, they have completed two years of legal and continuous residence in the MS in which the application for obtaining the status is submitted.

The SP proposes that the above provision of completing two years of legal and continuous residence in the Member State in which the application for obtaining the status is submitted, to be changed to 3 years so that the applicant has enough time to establish himself in the country where the specific status is requested. He also proposes that the accumulated period that will be considered as a stay should concern only the holders of residence permits issued on the basis of the Guidelines for Legal Immigration (e.g ICT, Blue Card).

Answering the question raised by the SP whether the MS are in favour of a system with accumulation of residence in different Member States, the Cyprus Republic promotes that this provision cannot adversely affect the procedure, if the conditions for integration are still valid. However, the implementation of such a provision will add adversely to the administrative work load.

The article 4(2) introduces the notion of 'control mechanisms' for which member states will ensure the continuous physical presence of third-country nationals within EU. The monitoring of continuous physical residence in the Union is vital for the implementation of the Directive. This might be particularly difficult within the Schengen territory where passports and all other types of border control documents have been abolished.

Due the fact that Cyprus is an island and that access to the Republic of Cyprus is possible only through airports, therefore, the national entry- exit system is used as a control mechanism to ensure the requirement for legal and continuous residence.

Article 5

The current LTR Directive allows national residence permits of permanent or unlimited validity to be counted without restrictions. In its recast proposal, the Commission proposes changes in several Articles that limit Member States to maintain and develop national systems that are more beneficial than corresponding provisions in the LTR Directive.

In the SP's compromise proposal, it chose to maintain some aspects of the level playing field, while at the same time allowing Member States to have national policies that are more favourable than the Directive. The proposal to recast the Directive aims to make the EU more attractive for specialized skills and talent.

The SP supports the Commission's objective but fears that its proposal could have the opposite effect if MS refrain from maintaining or introducing particularly attractive permanent residence programs specifically for highly skilled labour migrants.

In SPs question whether the Member States are in favour of introducing certain aspects of level playing field in the LTR Directive, the Cyprus Republic, maintains its reservation regarding the introduction of some level playing field between national residence permits and the Long-Term Residents Directive. The reason lies in the fact that the candidates for obtaining the status of the long-term resident contribute to the economy of the Member Sate, since they have a legal and continuous stay for at least 5 years, unlike any other type of permanent residence permit that applicants are not required to stay for long periods of time in the country.

Article 9(1)

In the Commission's recast proposal, the period during which a long-term status holder can be absent from the territory of the Union without losing the status was extended from 12 to 24 months. Many Member States in the context of this proposal expressed concerns about the effects of the European Court of Justice decision in case C-432/20, according to which a person could avoid losing long-term resident status by visiting EU territory every 24 months for a short stay.

The SP agrees with the Commission that it is important to facilitate circular migration without leading to inappropriate use of the regime.

The SP suggests that the loss of long-term resident status should be possible when its holders are absent from EU territory for a cumulative period rather than a continuous 24 months over the five years.

In SPs question whether Member States can accept an extended period of absence from the territory of the Union if the right balance is struck in the proposal , after the judgement the judgement in Case C-432/20 and if the agree with the presidency's approach , the Cyprus Republic position, is that this is an important change that is not expected to particularly affect the existing situation.

Article 12(2)

In the current Directive, Member States can limit equal treatment in cases where the registered or usual place of residence of the long-term resident or the family members for whom he/she claims benefits is in the territory of the MS concerned.

In its recast, the Committee proposed the deletion of "or that of family members from whom he/she claims benefits". The purpose of the deletion appears to be to adapt the text to the findings of the European Court of Justice in case C-303/19. In the decision the ECJ held, that a Member State cannot deny or reduce the right to benefits to long-term residents on the grounds that their family members, or some of them, do not reside in its territory but in a third country, when it gives this right to its nationals, regardless of the place of residence of their family members.

However, in the Presidency's view, the deletion in the Commission's proposal goes beyond the decision of the European Court of Justice and would further limit the possibilities of Member States to limit equal treatment.

Therefore, the SP has proposed to restore this possibility to the MS because it aligns the definition of social security and the right to export pensions and family benefits with the provisions of the most recent Directives. EU long-term residents or survivors of those who move to a third country should receive statutory pensions under the same conditions as its nationals.

In SPs question whether Member Sates support the presidency's proposal to reinsert the derogation permitted by the above-mentioned article the Cyprus Republic claims scrutiny reservation.

Article 15(1)

In its recast proposal, the Commission introduces new provisions regarding family members of status holders. In Article 15(1), the Commission proposes that children of EU long-term residents born or adopted in the territory of the Member State concerned should acquire long-term resident status without being subject to the conditions set out in Articles 4 and 5.

The Member States have questioned whether this provision is more generous than what applies to EU citizens under Directive 2004/58/EC.

The SP agrees with the generosity of the recast provision in that according to Article 18 of Directive 2004/58/EC, family members of EU citizens acquire the right of permanent residence after having resided legally for a period of five consecutive years in the Member State reception. If the MSs still accept such a system, the Presidency suggests that the text be made clearer.

The SP recommends that the provision be added that in order for the child to automatically be the holder of the status, he must reside in the territory of the MS that granted it to him. The aim is to ensure that the status is granted only to third country nationals who have actually resided in the territory of a MS.

In SPs question whether Member States can accept that children of long -term residents, born or adopted in the Member State, are granted LTR status without being subject to the conditions set out in Articles 4 and 5 Cyprus agrees with the Swedish Presidency.

QUESTIONS ON NATIONAL PERMITS OF PERMANENT OR UNLIMITED VALIDITY

In order to facilitate the negotiations on the Long-Term Residents Directive, delegations are invited to provide information on national residence permits with permanent or unlimited validity.

Q. Does your Member State have national residence permits of permanent or unlimited validity?

ANSWER 1: YES

Q: If yes, please list the relevant schemes.

ANSWER 2:

(1) Immigration Permit according to Reg.5 of the Aliens and Immigration Regulations

A third country national can apply to obtain an Immigration Permit on the basis of one of the Categories referred to, as in Regulation 5 of the Aliens and Immigration Regulations. An Immigration Permit will not be granted to anybody unless the Immigration Control Committee recommends to the Minister of Interior that such person belongs to one of the following Categories:
Category A: Persons who intend to work as self employed in agriculture, cattle breeding, bird breeding or fish culture in the Republic, provided that they have in their possession adequate land or a permit to acquire same, they have fully and freely at their disposal capital of approximately €430,000 and such an employment should not negatively affect the general economy of the Republic.
Category B: Persons who intend to work as self employed in mining enterprises in the Republic, provided that they have in their possession a relative permit, they have fully and freely at their disposal capital of approximately €350,000 and such an employment should not negatively affect the general economy of the Republic.

Category C: Persons who intend to work as self employed in a trade or profession in the Republic, provided that they have in their possession a relative permit, they have fully and freely at their disposal capital of approximately €260,000 and such an employment should not affect negatively the general economy of the Republic.

Category D: Persons who intend to work as self employed in a profession or science in the Republic, provided that they have academic or professional qualifications, for which there is demand in Cyprus. Possession of adequate funds is also necessary.

Category E: Persons who have been offered permanent employment in the Republic, which will not create undue local competition.

Category F: Persons who possess and have fully and freely at their disposal a secured annual income, high enough to give them a decent living in Cyprus, without having to engage in any business, trade or profession. The annual income required should be at least €9568,17 for a single applicant and moreover at least €4613,22 for every dependent person, but the Immigration Control Board may demand additional amounts as necessary.

(2) **Investors Scheme**

The applicant must invest at least €300,000 in one of the following investment categories:

(A) Investment in a house/apartment: Purchase of a house or apartment from a development company, which should concern a first sale of at least €300,000 (plus VAT).

(B) Investment in real estate (excluding houses/apartments): Purchase of other types of real estate such as offices, shops, hotels or related estate developments or a combination of these with a total value of €300,000. The purchase of interest can be the result of a resale.

(C) Investment in Cyprus Company's share capital, with business activities and personnel in the Republic: Investment worth €300,000 in the share capital of a company registered in the Republic of Cyprus, based and operating in the Republic of Cyprus and having a proven physical presence in Cyprus and employing at least five (5) people.

(D) Investment in units of Cyprus Investment Organization of Collective Investments (forms of AIF, AIFLNP, RAIF): Investment worth €300,000 in units of Cyprus Investment Organization Collective Investments.

In addition to the main investment the applicant must provide supporting evidence of a secure annual income of at least ***€30,000***, increased by €5,000 for every dependent person (spouse and children) and by €8,000 for every dependent parent or parent-in-law.

Q: Are these schemes targeting specific categories of third-country nationals? if so, which categories?

ANSWER 3: See ANSWER 2.

Q: What is the aim of such schemes?

ANSWER 4: To attract professionals and investors in the Republic.

Q: Which requirements need to be fulfilled to be granted such permits (incl. duration of residence)?

ANSWER 5: See ANSWER 2.

Q: Which rights are associated with such permits?

ANSWER 6: The only right involved in all these permits is that of permanent residence, while some categories also include the right to work in the Republic.

FINLAND

Finland retains its scrutiny reservation on the entire proposal and would like to provide the PRES with the following comments:

Written replies to the questions in the Presidency discussion paper (7512/23)

SCOPE (ART. 3)

Article 3(2)(e) + Article 3(2)(g)

1. Are Member States still concerned with the deletion in point e? If so, in what way? If possible, please give examples of residence permits that in your view no longer would be included in this provision (i.e., no longer excluded from the scope of the Directive).

   - *This has not been a concern in Finland.*

2. Would Member States agree to explicitly exclude third-country nationals whose removal has been suspended on the basis of fact or law from the scope?

   - *Yes. The Presidency's compromise proposal is acceptable, taking into account the purpose of the directive (integration).*

DURATION AND TYPE OF RESIDENCE NEEDED TO ACQUIRE LTR STATUS (ART. 4)

Article 4(1) in the PRES proposal (Article 4(5) in the COM proposal) + Article 4(3)

3. Can Member States accept a system where any residence spent as a holder of a long-stay visa or residence permit, even for purposes explicitly excluded from the scope of the directive, are taken into account? If not, which changes to the Commission's proposal would make such a system acceptable (for example the Presidency proposal where only two years of such visas or residence permits, in the Member State concerned, are relevant and some permits are explicitly excluded)?

4. Are Member States in favour of a system with accumulation of residence in different Member States? If not, which changes to the Commission's proposal would make such a system acceptable (for example the Presidency proposal where only permits issued under specific legal migration directives could be cumulated)?

   - *Finland can accept the Commission's proposals and is flexible about the Presidency's compromise proposals as well, as long as the application is clear.*

   - *The accumulation of residence may be challenging in practice (assessment of residence in another Member State and access to information on it), taking into account the different permit categories and practices of Member States. For this reason, the Presidency's proposal, based on which only permits issued under EU directives would be taken into account, seems to be worth considering.*

CONTROL MEASURES (ART. 4(2))

5. Which control measures do Member States have in place today to make sure that the requirement of legal and continuous residence is fulfilled? Are such control measures conducted before and/or after LTR status is granted?

   - *When granting LTR status, the conditions for issuing a residence permit shall be reviewed. Control measures are not conducted, systematically, after LTR status has been granted. The Finnish Immigration Service is currently developing control measures in general, not especially for this target group.*

   - *Finland does not have residence permits for investors.*

LEVEL PLAYING FIELD (ART. 5(4), 7(4), 10(3), 12(7) AND 15(5))

6. Are Member States in favour of introducing certain aspects of level playing field in the LTR Directive? If so, in which of the relevant articles?

   - *Finland can take a flexible approach to the proposals in this respect.*

ABSENCE FROM THE EU TERRITORY (ART. 9(1))

7. Can Member States accept an extended period of absence from the territory of the Union if the right balance is struck in the proposal, after the judgment in Case C-432/20?

8. Do Member State agree with the Presidency's approach? If not, which further changes would Member States like to see and why?

   - *Finland can accept the Commission's proposal and also take a flexible view of the Presidency's compromise proposal in this regard.*

EQUAL TREATMENT (ART. 12(2))

9. Can Member States support the PRES proposal to reinsert the derogation permitted by Article 12(2)?

   - *Finland can accept both options.*

ACQUISITION OF LTR STATUS FOR CHILDREN BORN OR ADOPTED IN A MEMBER STATE (ART. 15(1))

10. Can Member States accept that children of long-term residents, born or adopted in the Member State, are granted LTR status without being subject to the conditions set out in Articles 4 and 5 (i.e., instantly), even though this provision appears to be more generous than corresponding provisions for family members of EU-citizens?

   - *Yes, Finland can accept this provision. Protecting family life of the third-country nationals and the best interests of the child can be considered acceptable from the perspective of fundamental and human rights. The provision does not affect EU citizens' right to family life or the right of citizens of the Union or their family members to move and reside freely within the territory of the Member States.*

QUESTIONS ON NATIONAL PERMITS OF PERMANENT OR UNLIMITED VALIDITY

Finland does have a national permanent residence permit (period of validity is not limited). The permit is not targeted to any specific category of third-country nationals.

A permanent residence permit can be granted if a third-country national has lived in Finland continuously for four years with a continuous residence permit (the A permit) and the requirements for granting a continuous residence permit still exist and there are no obstacles (such as crimes committed) to issuing a permanent resident permit. For example a permanent residence permit can be granted on the grounds of family or work.

Residence is considered continuous if a third-country national has resided in Finland for at least half the validity period of the residence permit. Absence resulting from ordinary holiday or other travel or work at a work site abroad on secondment by a Finnish employer is not considered an interruption of continuous residence.

The rights associated with the national permanent residence permit include, for instance, an unrestricted right to work.

FRANCE

I/ Proposition de révision de la directive « résidents de longue durée – UE »

Commentaire général

La France remercie la présidence pour le travail réalisé afin d'avancer sur la révision de la directive « résidents de longue durée - UE » (RLD-UE). Au-delà des réserves exprimées, la France souhaite assurer la présidence de son plein engagement dans la recherche de solutions de compromis sur cette directive en vue d'obtenir une révision à la fois ambitieuse et équilibrée du texte.

Commentaires article par article (1-15)

Article 3 :

Au paragraphe 2, la France salue le fait que les personnes séjournant uniquement pour des motifs à caractère temporaire continuent d'être exclues du champ d'application de la directive (personnes au pair, travailleurs saisonniers, travailleurs salariés détachés par un prestataire de services afin de fournir des services transfrontaliers, prestataires de services transfrontaliers).

Article 4 :

La France estime que plusieurs difficultés d'ordre technique et juridique plaident pour le maintien des règles actuelles.

S'agissant du calcul du délai minimum de résidence au sein d'un État membre, la France note une avancée par rapport à la proposition initiale, bien que celle-ci ne puisse répondre pleinement à ses préoccupations. En effet, la France est fortement attachée au maintien d'un ancrage le plus stable possible du ressortissant étranger dans l'État membre où il dépose sa demande de statut RLD-UE, d'autant que la carte de résident de longue durée se traduit en droit national par la délivrance d'un titre de séjour de dix ans très protecteur. Il convient donc de **conserver une durée minimale de 5 ans de résidence sur le territoire de l'État membre** en amont de la demande du titre afin de remplir les conditions d'intégration nécessaires à l'octroi de ce statut.

La France estime également qu'il existe des **difficultés d'ordre technique** à calculer les périodes de résidence effectuées dans différents États membres, ainsi qu'à s'assurer de la régularité du séjour et du motif d'admission. Cette difficulté est d'autant plus prégnante en l'absence de mise en œuvre du *VIS Recast*.

De plus, en l'état, l'article 4 pose des **difficultés de cohérence juridique** car il prend en compte, pour le calcul de la durée de résidence, certains titres n'entrant pas dans le champ d'application de la directive (notamment les travailleurs saisonniers). Sur le principe, il ne parait pas cohérent qu'un texte législatif énonce d'un côté des exclusions, et de l'autre indique qu'elles n'ont pas à être prises en compte.

Article 5 :

La France souligne la nécessité de mettre en cohérence la rédaction du considérant 11, qui fait référence aux ressources mises à disposition par un tiers, et le point a) du paragraphe 1 de l'article 5, qui supprime la possibilité de prendre en compte de telles ressources. En effet, la France se conforme aux jurisprudences de la CJUE (*Chakroun, C-578/08, et X/Belgische Staat, C-302/18)* qui précisent que les États membres doivent pouvoir prendre en considération la nature, l'origine et la régularité des ressources émanant de tiers.

Article 7 :

La France rappelle la nécessité d'organiser clairement l'échange d'informations entre États membres car la rédaction actuelle de la clause optionnelle prévue à l'alinéa 2 du paragraphe 2 n'apporte pas de solution dans le cas où un État membre ne répondrait pas dans le délai d'un mois. Il semble d'autant plus difficile de s'assurer de la régularité du séjour et du motif d'admission dans différents États membres en l'absence de mise en œuvre du *VIS Recast*.

Articles 9 :

La France salue la reformulation proposée par la présidence au paragraphe 6, alinéa 3, qui prévoit des conditions d'intégration en cas de réacquisition du statut de RLD-UE pour un ressortissant de pays tiers ayant perdu ou s'étant vu retirer son statut depuis plus de trois ans.

Article 15 :

L'article 15 constitue un point d'attention majeur pour la France. Elle rappelle qu'elle était fermement opposée à la rédaction proposée par la Commission à l'article 15, paragraphe 1, dans la mesure où cette disposition permettait un accès automatique au statut de RLD-UE pour les enfants de résidents de longue durée - UE nés ou adoptés sur le territoire de l'État membre ayant délivré le titre RLD-UE, sans qu'ils soient soumis à l'obligation de résidence préalable, de ressources suffisantes ou d'intégration.

En ce sens, **la France maintient une réserve d'examen sur cet article** afin de vérifier l'articulation entre cette nouvelle rédaction et la nécessité de s'assurer que les conditions d'intégration sont remplies.

En tout état de cause, le considérant 27 doit être mis en cohérence avec la rédaction proposée par la présidence au paragraphe 1 de l'article 15. Dans la mesure où cet article prévoit désormais une obligation de résidence sur le territoire de l'État membre qui accorde le statut de résident de longue durée – UE pour les enfants, la France propose de supprimer *« in particular without being subject to the requirement of prior residence »* au considérant 27.

II/ QUESTIONS DU DOCUMENT DE TRAVAIL DE LA PRÉSIDENCE

1. *Les États membres sont-ils toujours préoccupés par la suppression au point e)? Si oui, de quelle manière ? Si possible, veuillez donner des exemples de permis de séjour qui, à votre avis, ne seraient plus inclus dans cette disposition (c'est-à-dire qu'ils ne seraient plus exclus du champ d'application de la directive).*

   La France ne faisait pas partie des États préoccupés par la suppression du point e). Au contraire, la France était dès le départ favorable à la suppression de cette disposition dont l'interprétation et la mise en œuvre paraissaient difficiles, dans la mesure où tout titre de séjour connaît une limitation de sa durée. En effet, en droit français, même les cartes de résident permanent ont une date d'expiration, même si la durée de validité du droit au séjour n'est pas limitée.

2. *Les États membres accepteraient-ils d'exclure explicitement du champ d'application les ressortissants de pays tiers dont l'éloignement a été suspendu pour des raisons de fait ou de droit ?*

   La France est favorable à l'exclusion des périodes de séjour sous ce type de statut dans le calcul de la durée de séjour nécessaire pour l'obtention du statut RLD-UE. En effet, il s'agit davantage, par nature, d'une tolérance temporaire de la présence d'une personne sur le territoire que d'un droit de séjour durable. Son motif d'octroi, qui est de couvrir provisoirement la personne jusqu'à la mise en œuvre de son éloignement, ne parait pas être en ligne avec la directive dont le statut doit traduire l'ancrage durable d'un ressortissant de pays tiers au sein d'un État membre et son intégration au sein de celui-ci.

3. *Les États membres peuvent-ils accepter un système où toute résidence passée en tant que titulaire d'un visa ou d'un titre de séjour de longue durée, même à des fins explicitement exclues du champ d'application de la directive, est prise en compte ? Si non, quelles modifications de la proposition de la Commission rendraient un tel système acceptable (par exemple la proposition de la présidence où seuls deux ans de tels visas ou permis de séjour, dans l'État membre concerné, sont pertinents et certains permis sont explicitement exclus) ?*

La France est opposée à une rédaction qui permettrait de comptabiliser dans les cinq ans de séjour des motifs qui sont exclus du champ d'application de la directive. Il ne parait pas cohérent qu'un texte législatif énonce d'un côté des exclusions, puis de l'autre indique que ses exclusions n'ont pas à être prises en compte. En outre, cette proposition ne semble pas applicable en l'absence de mise en œuvre du *VIS Recast*. En l'absence d'un tel outil, il semble en effet extrêmement difficile de s'assurer dans des délais raisonnables de la régularité du séjour dans un autre État membre et de vérifier le motif d'admission au séjour.

La proposition de la présidence constitue une avancée en ce qu'elle facilite la reconnaissance du séjour antérieur dans un autre État membre en se fondant sur des motifs exclusivement couverts par les directives déjà existantes sur les migrations légales. Toutefois, la France estime que la référence aux étudiants, aux pairs et saisonniers n'est pas pertinente dès lors qu'ils sont exclus du champ d'application de la directive et donc que ces motifs de résidence ne seraient pas acceptables pour le décompte de la durée de résidence dans l'État membre où le permis est demandé.

La France s'oppose donc à la proposition de la présidence suédoise limitant à deux ans la durée de séjour maximum pouvant avoir eu lieu dans un autre État membre (et non à trois ans comme cela figure dans la proposition initiale de la Commission). En effet, même si cette évolution représente une avancée par rapport à la proposition initiale de la Commission, la France souhaite privilégier un ancrage stable du ressortissant étranger dans l'État membre où il dépose sa demande de statut RLD-UE. Pour la France, le fait qu'une décision d'admission dans un État membre ait un tel impact sur la latitude d'un deuxième État membre dans l'examen ultérieur d'une demande de séjour pose, enfin, un vrai problème de principe.

4. *Les États membres sont-ils favorables à un système avec cumul de la résidence dans différents États membres ? Si ce n'est pas le cas, quelles modifications de la proposition de la Commission rendraient un tel système acceptable (par exemple la proposition de la présidence selon laquelle seuls les permis délivrés en vertu de directives spécifiques sur la migration légale pourraient être cumulés) ?*

Outre le problème de principe évoqué précédemment, il existe des difficultés d'ordre technique à calculer les périodes de résidence effectuées dans différents États membres.

Par exemple, les travailleurs saisonniers bénéficient en France d'une carte de séjour pluriannuelle valable 3 ans mais ne leur permettant de résider en France que 6 mois par an. Un autre État membre devra dans ce cas ne comptabiliser que les semestres passés réellement en France, et non pas la durée totale de ce titre de séjour. De telles difficultés devront être anticipées.

5. *Quelles mesures de contrôle les États membres ont-ils actuellement instauré pour s'assurer que l'exigence de résidence légale et continue est remplie ? Ces mesures de contrôle sont-elles menées avant et/ou après l'octroi du statut RLD ?*

En France, la durée de résidence continue et régulière est vérifiée au moyen d'un faisceau de preuves, dont la consultation du logiciel national permettant l'édition des titres de séjour (« AGDREF »), qui, pour la délivrance de la carte RLD-UE, n'accepte pas les cursus comportant des périodes non couvertes par un des titres de séjour entrant dans le champ d'application de la directive 2003/109/CE.

De plus, la vérification des autres critères de délivrance de la carte RLD-UE constitue également une opportunité de corroborer les informations disponibles sur le logiciel. Par exemple, la vérification du caractère suffisant des ressources passe le plus souvent par la production de l'avis d'imposition, lequel n'intervient que pour les personnes dont la résidence principale est basée en France (ce qui impose de passer au moins 6 mois par an en France).

6. *Les États membres sont-ils favorables à l'introduction de certains aspects de règles du jeu équitables dans la directive RLD ? Si oui, dans lequel des articles concernés ?*

Les mesures proposées par la Commission ne posent pas de problème particulier à la France, dans la mesure où elle applique déjà ces dispositions (pour mémoire : pas d'obligations d'intégration et de ressources pour l'acquisition du statut RLD–UE plus strictes que celles régissant l'acquisition du statut national (article 5§3) ; même montant de taxe pour la délivrance du titre de séjour RLD-UE que pour les demandeurs de permis nationaux (article 11) ; pas de garanties procédurales ni de droits inférieurs pour les demandeurs de statut RLD-UE à ceux des titulaires de titres nationaux de séjour permanent (article 10§3, article 12§7).

En revanche, compte-tenu de sa règlementation nationale, la France est opposée à la disposition proposée par la Commission à l'article 15§5, qui obligerait les États membres à accorder aux membres de la famille de RLD-UE les mêmes droits que ceux accordés aux membres de la famille de titulaires de titres de séjour nationaux permanents ou illimités.

7. *Les États membres peuvent-ils accepter une période d'absence prolongée du territoire de l'Union si le juste équilibre est trouvé dans la proposition, après l'arrêt dans l'affaire C-432/20 ?*

L'allongement de la durée tolérée d'absence ne pose pas de difficulté en l'état actuel de la législation française, qui autorise pour les ressortissants de longue durée – UE des absences allant jusqu'à trois ans.

8. *L'État membre est-il d'accord avec l'approche de la présidence? Si ce n'est pas le cas, quels autres changements les États membres aimeraient-ils voir et pourquoi ?*

Si l'allongement de la durée d'absence autorisée ne pose pas de difficulté particulière à la France, elle est en revanche favorable à une mesure permettant de mieux encadrer la durée de séjour minimale dans l'État membre ayant accordé le statut RLD-UE interrompant la période d'absence.

9. *Les États membres peuvent-ils soutenir la proposition de la présidence de réinsérer la dérogation autorisée par l'article 12, paragraphe 2 ?*

La France soutient la proposition de la présidence tendant au rétablissement de la dérogation de l'article 12(2). En effet, sa législation nationale (article L. 512-1 du code de la sécurité sociale) retient actuellement une condition de résidence en France des enfants pour l'accès aux prestations familiales.

10. *Les États membres peuvent-ils accepter que les enfants de résidents de longue durée, nés ou adoptés dans l'État membre, se voient accorder le statut RLD sans être soumis aux conditions énoncées aux articles 4 et 5 (c'est-à-dire instantanément), même si cette disposition apparaît être plus généreuse que les dispositions correspondantes pour les membres de la famille des citoyens de l'UE ?*

La France est opposée à la proposition de la Commission. Cette mesure dénature le statut de RLD-UE, qui est un statut personnel et a toujours reposé sur une exigence de séjour régulier préalable ainsi que de ressources. Ces exigences se justifient au regard des avantages importants procurés par l'acquisition de ce statut, notamment pour la mobilité intra-européenne. De plus, une telle mesure entrainerait une impossibilité de vérifier l'intégration des personnes concernées. Au demeurant, la France ne délivre pas de titre de séjour aux mineurs et aurait ainsi des difficultés à appliquer une telle disposition.

III/ QUESTIONS POSÉES PAR LA PRÉSIDENCE SUITE À LA RÉUNION DU GROUPE IMEX ADMISSION DU 28/03/2023

- *Votre État membre dispose-t-il de titres de séjour nationaux à validité permanente ou illimitée ?*

En France, la législation nationale prévoit un droit au séjour permanent pour les usagers ayant résidé plus de 10 ans en situation régulière. Sur le plan technique, les cartes de résident permanent sont renouvelées tous les 10 ans pour des raisons de durée de validité des empreintes biométriques.

- *Dans l'affirmative, veuillez énumérer les régimes concernés.*

La carte de résident permanent est délivrée à toutes les personnes détenant une carte de résident valable 10 ans (notamment la « carte de résident de longue durée – UE ») et ayant résidé 20 ans sur le territoire national. En effet, la carte de résident permanent est attribuée de droit lors du second renouvellement du titre de séjour du demandeur, en vue de l'obtention de son 3e titre de séjour. Elle est systématiquement proposée aux ressortissants étrangers de plus de 60 ans lors du deuxième renouvellement de leur carte de résident.

- *Ces régimes visent-ils des catégories spécifiques de ressortissants de pays tiers ? Si oui, lesquelles ?*

Non.

- *Quel est l'objectif de ces régimes ?*

Elle permet d'octroyer un statut de résident permanent au ressortissant de pays tiers dont la présence en France s'inscrit dans la durée. Elle rend ainsi compte de la stabilité de son séjour.

- *Quelles sont les conditions à remplir pour obtenir ces permis (y compris la durée de résidence) ?*

La délivrance de la carte de résident permanent est de droit dès le deuxième renouvellement d'une carte de résident, à condition que la présence de l'étranger qui en fait la demande ne constitue pas une menace pour l'ordre public et qu'il réponde à la condition d'intégration républicaine dans la société française (appréciée en particulier au regard de son engagement personnel à respecter les principes qui régissent la République française, du respect effectif de ces principes et de sa connaissance de la langue française).

- *Quels sont les droits associés à ces permis ?*

Cette carte de résident permanent permet de résider en France pour une durée indéterminée. Elle confère à son titulaire l'intégralité des droits attachés au séjour régulier d'un étranger : accès au logement, exercice d'une activité professionnelle, droits sociaux (assurance maladie, allocations familiales), etc.

GERMANY

After consulting with our asylum colleagues we want to draw your attention to Recital 44 Qualification Regulation.

> *(44) […] In order to ensure that beneficiaries respect the authorised period of stay or residence in accordance with the relevant Union, national or international law, Council Directive 2003/109/EC should be amended to provide that the 5-year period after which beneficiaries of international protection are eligible for the EU long term resident […]status should […]in principle be restarted each time the person is found in a Member State, other than the one that granted international protection, without a right to stay or to reside there […].*

In principle this recital has already been agreed between the Council and the European Parliament. However, we recognize that the negotiations on the Revision of the Long Term Residence Directive might lead into a direction that is not easy to reconcile with that recital. Could you please let us know whether you plan to do anything with that recital? We would be thankful if you could take it into account for your further considerations.

DE Comments on 7517/23

Article 3

Scope

….

2. This Directive does not apply to third-country nationals ~~who~~:

….

(g) whose removal has been suspended on the basis of fact or law.

Germany agrees.

…

CHAPTER II

EU LONG-TERM RESIDENT STATUS IN A MEMBER STATE

Article 4

Duration of residence

1. ~~Notwithstanding paragraph 3 of this article,~~ Member States shall grant EU long-term resident status to third-country nationals who have resided legally and continuously within its territory for five years immediately prior to the submission of the relevant application.

For the purpose of calculating this five year period, for the first two years any period of legal and continuous residence spent as a holder of a long-stay visa or residence permit issued under Union or national law shall be taken into account, with the exception of residence covered in Article 3(2), points ~~(d),~~ (f) and (g).

We can support the Presidency compromise proposal.

In our view, the reference to Article 3 (2) (d) can be deleted due to the special provision on taking into account the period spent during the asylum procedure in Article 4 (5).

[With regard to beneficiaries of international protection, the required period of legal and continuous residence shall be three years.[2]]

2. Member States shall establish appropriate control mechanisms to ensure that the requirement of legal and continuous residence is duly monitored, with particular regard to applications submitted by third-country nationals holding and/or having held a residence permit granted on the basis of any kind of investment in a Member State.

3. Member States shall allow third-country nationals to cumulate periods of **up to two years of** residence in **other** ~~different~~ Member States in order to fulfil the requirement concerning the duration of residence **in paragraph 1**, provided that they~~y~~ **third-country nationals** have accumulated**:**

   (a) the legal and continuous residence in other Member States with a permit issued under Directive 2014/36, Directive 2014/66, Directive 2016/801 or Directive 2021/1883, and

[2 COM(2020) 610 final, COD 2020/0279, Article 71.]

(b) **at least three** ~~two~~ years of legal and continuous residence **immediately prior to the submission of the application, with a title of residence which enables them to be granted EU long-term resident status,** within the territory of the Member State where the application for EU long-term resident status is submitted ~~immediately prior to the submission of the application~~. ~~For the purpose of cumulating periods of residence in different Member States, Member States shall not take into account periods of residence as a holder of a residence permit granted on the basis of any kind of investment in another Member State~~.

We agree in principle with the Presidency compromise proposal.

However, please check whether the list should be expanded. Is there a reason why periods of residence with other harmonised residence permits are not also taken into account? This applies to periods of residence as a person with international protection in another Member State, as it is the case with the Blue Card Directive.

It is also still unclear how the exchange of information between Member States is guaranteed in practice. We would appreciate if the Commission could provide proposals on this.

We understand the Presidency's explanation that the deletion of "residence permit granted on the basis of any kind of investment" is harmless, as this is a non-harmonised national residence permit, which, according to the Presidency compromise proposal, cannot be taken into account as a harmonised residence permit anyway.

….

Article 5

Conditions for acquiring EU long-term resident status

1. Member States shall require third-country nationals to provide evidence that they have, for themselves and for dependent family members:

(a) stable and regular resources~~, also made available by a third party~~, which are sufficient to maintain himself/herself and the members of his/her family, without recourse to the social assistance system of the Member State concerned. Member States shall evaluate these resources by reference to their nature and regularity and may take into account the level of minimum wages and pensions prior to the application for long-term resident status**. Member States may indicate a certain sum as a reference amount, but they may not impose a minimum income level, below which all applications for EU long-term resident status would be refused, irrespective of an actual examination of the situation of each applicant**;

Germany agrees.

(b) sickness insurance in respect of all risks normally covered for his/her own nationals in the Member State concerned.

2. **Member States may require third-country nationals to provide evidence that they have, for themselves and for dependent family members, evidence of appropriate accommodation.** ~~For the purpose of paragraph 1, point (a), Member States shall evaluate the stable and regular resources by reference to their nature and regularity and may take into account the level of minimum wages and pensions prior to the application for long-term resident status. Member States may indicate a certain sum as a reference amount, but they may not impose a minimum income level, below which all applications for EU long-term resident status would be refused, irrespective of an actual examination of the situation of each applicant.~~

Germany agrees.

3. Member States may require third-country nationals to comply with integration conditions, in accordance with national law.

~~4. Where Member States issue national residence permits in accordance with Article 14, they shall not require EU long-term resident permit applicants to comply with stricter resources and integration conditions than those imposed on applicants for such national residence permits.~~

We agree to the deletion.

…

Article 7

Acquisition of EU long-term resident status

1. To acquire EU long-term resident status, the third-country national concerned shall lodge an application with the competent authorities of the Member State in which he/she resides. The application shall be accompanied by documentary evidence to be determined by national law that he/she meets the conditions set out in Articles 4 and 5 as well as, if required, by a valid travel document or its certified copy.

2. The competent national authorities shall give the applicant written notification of the decision as soon as possible and in any event no later than six months from the date on which the complete application was lodged. Any such decision shall be notified to the third-country national concerned in accordance with the notification procedures under the relevant national legislation.

   The time limit for adoption of the decision may be suspended for 1 month if the competent authorities of the Member State where the application for EU long-term resident status is submitted requests information from another Member State.

   Where the documents presented or information provided in support of the application are inadequate or incomplete, the competent authorities shall notify the applicant of the additional documents or information that are required and shall set a reasonable deadline for presenting or providing them. The period referred to in the first subparagraph shall be suspended until the authorities have received the additional documents or information required. If the additional documents or information required have not been provided within that deadline, the application may be rejected.

In addition to checking the documentary evidence submitted by the third-country national concerned, the competent authorities of the Member States may exchange information for the purpose of verifying compliance with the requirements of Article 4(3) regarding the periods of legal and continuous residence within the territory of other Member States. Member States receiving such a request for information shall reply within 1 month.

The person concerned shall be informed about his/her rights and obligations under this Directive.

Any consequences of no decision being taken by the end of the period provided for in this provision shall be determined by national legislation of the relevant Member State.

We agree to Article 7 (2).

3. If the conditions provided for by Articles 4 and 5 are met, and the person does not represent a threat within the meaning of Article 6, the Member State concerned shall grant the third-country national concerned EU long-term resident status.

4. Where an application for an EU long-term resident permit concerns a third-country national who holds a national residence permit issued by the same Member State in accordance with Article 14, that Member State shall not require the applicant to give evidence of the conditions provided for in Article 5(1) and (2), if the compliance with those conditions ~~was already~~ **can be** verified **by information** in ~~the context of~~ the application for the national residence permit.

We maintain a scrutiny reservation regarding Article 7 (4). We agree with the Presidency to the extent that we reject duplicate checks of the conditions. However, we want to ensure that the conditions for EU long-term residence status are actually fulfilled when the permit is issued. The conditions for acquiring EU long-term residence status can only be assessed based on information that was already presented for acquiring a national residence permit if both applications are made more or less at the same time, or at least within a short period of time.

Article 9

Withdrawal or loss of status

1. EU long-term residents shall no longer be entitled to maintain EU long-term resident status in the following cases:

   (a) detection of fraudulent acquisition of EU long-term resident status;

   (b) adoption of a decision ending the legal stay under the conditions provided for in Article 13;

   (c) in the event of absence from the territory of the Union for a **total** period ~~of~~ **exceeding** 24 ~~consecutive~~ months **within a five year period**.

We would like to stay with the current provision and the permissible absence of up to 12 consecutive months irrespective of a period of five years. We feel that it should be made clear that the provision is not meant to facilitate absence from the territory of the EU, but to make the stay and presence on EU territory more attractive.

2. By way of derogation from paragraph 1, point (c), Member States may provide that absences for specific or exceptional reasons exceeding 24 consecutive months shall not entail withdrawal or loss of status.

3. Member States may provide that the EU long-term resident shall no longer be entitled to maintain his/her EU long-term resident status in cases where he/she constitutes a threat to public policy, in consideration of the seriousness of the offences he/she committed, but such threat is not a reason for ending his/her legal stay within the meaning of Article 13.

4. Member States may withdraw the EU long-term resident status in the event of the revocation of, ending of or refusal to renew international protection as laid down in Articles 14(3) and 19(3) of Directive 2011/95/EU if the long-term resident status was obtained on the basis of international protection.

5. The long-term resident who has resided in another Member State in accordance with Chapter III shall no longer be entitled to maintain his/her EU long-term resident status acquired in the first Member State when such a status is granted in another Member State pursuant to Article 26.

In any case after six years of absence from the territory of the Member State that granted EU long-term resident status the person concerned shall no longer be entitled to maintain his/her EU long term resident status in the said Member State.

By way of derogation from the second subparagraph, the Member State concerned may provide that for specific reasons the EU long-term resident shall maintain his/her status in the said Member State in case of absences for a period exceeding six years.

The Member States concerned may exchange information for the purpose of verifying the loss or withdrawal of the status in accordance with the cases referred to in this paragraph.

6. With regard to the cases referred to in paragraph 1, point (c) and in paragraph **5**~~4~~, Member States who have granted the status shall provide for a facilitated procedure for the re-acquisition of EU long-term resident status.

In those cases, Member States may decide not to require the fulfilment of the conditions set out in Article 4(1) and Article 5(1).

Member States shall not require third-country nationals who apply for the re-acquisition of the EU long-term resident status to comply with integration conditions**, unless more than three years have passed since the withdrawal or loss of the EU long-term resident status**.

Germany agrees.

7. The expiry of an EU long-term residence permit shall in no case entail withdrawal or loss of EU long-term resident status.

8. Where the withdrawal or loss of EU long-term resident status does not lead to the ending of the legal stay , the Member State shall authorise the person concerned to remain in its territory if he/she fulfils the conditions provided for in its national legislation and/or if he/she does not constitute a threat to public policy or public security.

Article 10

Procedural guarantees

1. Reasons shall be given for any decision rejecting an application for EU long-term resident status or withdrawing that status. Any such decision shall be notified to the third-country national concerned in accordance with the notification procedures under the relevant national legislation. The notification shall specify the redress procedures available and the time within which he/she may act.

2. Where an application for EU long-term resident status is rejected or that status is withdrawn or lost or the residence permit is not renewed, the person concerned shall have the right to mount a legal challenge in the Member State concerned.

3. Where Member States issue national residence permits in accordance with Article 14, they shall grant EU long-term resident permit holders and applicants the same procedural safeguards as those provided for under their national schemes where the procedural safeguards under such national schemes are more favourable than those provided for in this Article, paragraphs 1 and 2~~, and in Article 7(2)~~.

Germany agrees.

...

Article 12

Equal treatment

1. EU long-term residents shall enjoy equal treatment with nationals as regards:

   (a) access to employment and self-employed activity, provided such activities do not entail even occasional involvement in the exercise of public authority, and conditions of employment and working conditions, including conditions regarding dismissal and remuneration;

(b) education and vocational training, including study grants in accordance with national law;

(c) recognition of professional diplomas, certificates and other qualifications, in accordance with the relevant national procedures;

(d) branches of social security referred to in Article 3 of Regulation (EC) No 883/2004 of the European Parliament and of the Council[3], and social assistance and social protection as defined by national law;

(e) tax benefits;

(f) access to goods and services and the supply of goods and services made available to the public, including ~~access to private housing, and to~~ procedures for obtaining ~~public~~ housing;

We kindly request further explanation as to why "private housing" was deleted. We maintain our stance that access to private housing should not be limited.

As a compromise, we would suggest the following wording, taking into account the provisions in Article 16 (2) subparagraph 2 of the Blue Card Directive: "This shall be without prejudice to the freedom of contract in accordance with Union and national law".

(g) freedom of association and affiliation and membership of an organisation representing workers or employers or of any organisation whose members are engaged in a specific occupation, including the benefits conferred by such organisations, without prejudice to the national provisions on public policy and public security;

(h) free access to the entire territory of the Member State concerned, within the limits provided for by the national legislation for reasons of security.

[3] Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (OJ L 166, 30.4.2004, p. 1).

2. With respect to the provisions of paragraph 1, points (b), (d), (e), (f) and (g), the Member State concerned may restrict equal treatment to cases where the registered or usual place of residence of the EU long-term resident**, or that of family members from whom he/she claims benefits,** lies within the territory of the Member State concerned.

We have no objections to the addition. However, in our view, it is not necessary.

3. Member States may restrict equal treatment with nationals in the following cases:

(a) Member States may retain restrictions to access to employment or self-employed activities in cases where, in accordance with existing national or Union legislation, these activities are reserved to nationals, EU or EEA citizens;

(b) Member States may require proof of appropriate language proficiency for access to education and training. Access to university may be subject to the fulfilment of specific educational prerequisites.

4. As far as the Member State which granted international protection is concerned, paragraphs 3 and 4 shall be without prejudice to Directive 2011/95/EU.

5. EU long-term residents moving to a third country, or their survivors who reside in a third country and who derive rights from an EU long-term resident, shall receive, in relation to old age, invalidity and death, statutory pensions based on the EU long-term resident's previous employment that were acquired in accordance with the legislation referred to in Article 3 of Regulation (EC) No 883/2004, under the same conditions and at the same rates as nationals of the Member States concerned where such nationals move to a third country.

6. Member States may decide to grant access to additional benefits in the areas referred to in paragraph 1.

Member States may also decide to grant equal treatment with regard to areas not covered by paragraph 1.

7. Where Member States issue national residence permits in accordance with Article 14, they shall grant EU long-term resident permit holders the same equal treatment rights as those granted to holders of national residence permits, where such equal treatment rights are more favourable than those provided for in this Article.

Article 15

Family members of EU long-term residents

1. **A** ~~The~~ child~~ren~~ of an EU long-term resident ~~who are born or adopted in the territory of the Member State that issued him/her the EU long-term residence permit~~ shall acquire EU long-term resident status ~~automatically,~~ without being subject to the conditions set out in Articles 4 and 5**, if the child is born or adopted and resides in the territory of the Member State that issued the EU long-term resident his/her EU long-term residence permit**. ~~The EU long-term resident shall lodge an application with the competent authorities of the Member State in which he/she resides to obtain the EU long-term resident permit for his/her child.~~

2. By way of derogation from Article 4(1), third subparagraph, and from Article 7(2), first subparagraph, of Directive 2003/86/EC, the integration conditions and measures referred to therein may be applied, but only after the persons concerned have been granted family reunification.

3. By way of derogation from Article 5(4), first subparagraph, of Directive 2003/86/EC, where the conditions for family reunification are fulfilled, the decision shall be adopted and notified as soon as possible but not later than ~~90 days~~ **six months** after the date of submission of the **complete** application ~~for family reunification~~. Article 7(2) and Article 10 of this Directive shall apply accordingly.

4. By way of derogation from Article 14(2) of Directive 2003/86/EC, Member States shall not ~~examine the situation of their~~ **apply any time limit in respect of access to the** labour market **for family members**.

~~5. Where Member States issue national residence permits in accordance with Article 14, they shall grant family members of EU long-term residents the same rights as those granted to family members of holders of such national residence permits where such rights are more favourable than those provided for in paragraphs 1 to 4 of this Article.~~

We maintain a scrutiny reservation regarding Article 15 (1). In all other regards, Germany agrees.

Regarding Article 15 (1): Under German law, family reunification is not allowed if it is established that the adoption was carried out or kinship established solely for the purpose of enabling the persons immigrating subsequently to enter and stay in the federal territory. It is important to us that the proposed application procedure retain the possibility to rule out the abuse of adoptions for the sole purpose of acquiring long-term resident status.

DE Comments on ST 7512/23

2. SCOPE

2.1. Art. 3(2)(e)

Questions for Member States to be discussed in IMEX on March 28:

1. Are Member States still concerned with the deletion in point e? If so, in what way? If possible, please give examples of residence permits that in your view no longer would be included in this provision (i.e., no longer excluded from the scope of the Directive).

We have not yet finished our examination of this.

2.2. Art. 3(2)(g)

Questions for Member States to be discussed in IMEX on March 28:

2. Would Member States agree to explicitly exclude third-country nationals whose removal has been suspended on the basis of fact or law from the scope?

Yes, third-country nationals who are required to leave the country and whose removal has been suspended should be excluded from the scope of the Regulation.

3. DURATION AND TYPE OF RESIDENCE NEEDED TO ACQUIRE LTR STATUS (ART. 4)

Questions for Member States to be discussed in IMEX on March 28:

3. Can Member States accept a system where any residence spent as a holder of a long-stay visa or residence permit, even for purposes explicitly excluded from the scope of the directive, are taken into account? If not, which changes to the Commission's proposal would make such a system acceptable (for example the Presidency proposal where only two years of such visas or residence permits, in the Member State concerned, are relevant and some permits are explicitly excluded)?

We can in principle support the Presidency compromise proposal regarding this.

4. Are Member States in favour of a system with accumulation of residence in different Member States? If not, which changes to the Commission's proposal would make such a system acceptable (for example the Presidency proposal where only permits issued under specific legal migration directives could be cumulated)?

We see the benefit of a system with accumulation of residence in different Member States for the purpose of making long-term residence in the EU more attractive.

The Commission's proposal, according to which non-harmonised residence permits can also be cumulated, is very ambitious in Germany's view. Germany views it as problematic, that unlike periods of prior residence accumulated under Union law, such periods would not be based on a common European framework but solely on national policies.

We agree in principle with the Presidency's proposal. However, please check whether the list should be expanded. Is there a reason why periods of residence with other harmonised residence permits are not also taken into account? This applies to periods of residence as a person with international protection in another Member State, as it is the case with the Blue Card Directive.

It is also still unclear how the exchange of information between Member States is guaranteed in practice. We would appreciate if the Commission could provide proposals on this.

4. CONTROL MEASURES (ART. 4(2))

Questions for Member States to be discussed in IMEX on March 28:

5. Which control measures do Member States have in place today to make sure that the requirement of legal and continuous residence is fulfilled? Are such control measures conducted before and/or after LTR status is granted?

In our view, the aspect of "legal and continuous residence" is difficult to monitor in individual cases and is associated with considerable administrative burden and, ultimately, however, not yet satisfactorily controllable. In Germany, some monitoring already takes place in that, in principle, the residence permit must be applied for and collected in person. This ensures to a certain extent that the person is in the country. In addition, certain monitoring is also carried out by applying the provision on deletion in the case of long periods of absence from the federal territory (see section 51 nos. 6 and 7 of the Residence Act).

5. LEVEL PLAYING FIELD (ART. 5(4), 7(4), 10(3), 12(7) AND 15(5))

Questions for Member States to be discussed in IMEX on March 28:

6. Are Member States in favour of introducing certain aspects of level playing field in the LTR Directive? If so, in which of the relevant articles?

We agree with maintaining certain aspects of the level playing field, especially from a procedural perspective. Specifically, we agree with maintaining Articles 10 (3) and 12 (7).

6. ABSENCE FROM THE EU TERRITORY (ART. 9(1))

Questions for Member States to be discussed in IMEX on March 28:

7. Can Member States accept an extended period of absence from the territory of the Union if the right balance is struck in the proposal, after the judgment in Case C-432/20?

We would like to stay with the current provision and the permissible absence of up to 12 consecutive months irrespective of a period of five years. We feel that it should be made clear that the provision is not meant to facilitate absence from the territory of the EU, but to make the stay and presence on EU territory more attractive.

8. Do Member State agree with the Presidency's approach? If not, which further changes would Member States like to see and why?

See answer to question 7.

7. EQUAL TREATMENT (ART. 12(2))

Questions for Member States to be discussed in IMEX on March 28:

9. Can Member States support the PRES proposal to reinsert the derogation permitted by Article 12(2)?

We have no objections to the addition. However, in our view, it is not necessary.

8. ACQUISITION OF LTR STATUS FOR CHILDREN BORN OR ADOPTED IN A MEMBER STATE (ART. 15(1))

Questions for Member States to be discussed in IMEX on March 28:

10. Can Member States accept that children of long-term residents, born or adopted in the Member State, are granted LTR status without being subject to the conditions set out in Articles 4 and 5 (i.e., instantly), even though this provision appears to be more generous than corresponding provisions for family members of EU-citizens?

We refer to our comments on Article 15 of the Presidency compromise proposal.

QUESTIONS ON NATIONAL PERMITS OF PERMANENT OR UNLIMITED VALIDITY

***Remark**: For an English translation of the Residence Act, including the provisions mentioned in this paper, please see https://www.gesetze-im-internet.de/englisch_aufenthg/index.html.*

Does your Member State have national residence permits of permanent or unlimited validity?

Yes.

If yes, please list the relevant schemes.

The relevant provisions are part of the Residence Act. The permanent residence permit is open to all foreigners. For further information see below.

Are these schemes targeting specific categories of third-country nationals? if so, which categories?

The usual permanent residence permit is open to all foreigners (section 9 Residence Act).

Specific requirements for permanent residence permits apply to certain groups of foreigners, inter alia for qualified workers (section 18c Residence Act), for family members of a German national (section 28 (2) Residence Act) and for certain holders of a humanitarian residence permit (section 26 (3) Residence Act).

What is the aim of such schemes?

For qualified workers the aim is generally to make Germany more attractive for this group (section 18c Residence Act).

For family members of a German national the aim is to privilege foreigners that can be expected to have a better integration perspective due to a family connection with a German national (section 28 (2) Residence Act).

For holders of certain humanitarian residence permits the aim is to take into consideration their situation when it comes to certain requirements. For persons entitled to asylum, persons entitled to international protection and (resettled) refugees the rule is that the requirements for securing the living subsistence and the required command of the German language is lower than for other foreigners (section 26 (3) sentence 1 Residence Act).

A further rule for persons entitled to asylum, persons entitled to international protection and (resettled) refugees aims to create integration incentives. They are to be granted a permanent residence permit after three years if they fulfil higher requirements for securing the living subsistence and the required command of the German language (section 26 (3) sentence 2 Residence Act).

Which requirements need to be fulfil to be granted such permits (incl. duration of residence)?

Permanent residence permit open to all foreigners (conditions set out in section 9 Residence Act)

A foreigner is to be granted a permanent residence permit provided the following conditions are fulfilled:

- temporary residence permit for five years,
- subsistence is secure,
- paid compulsory pension insurance contributions for 60 months
- no reasons of public safety or order which would rule out granting such a permit, taking into account the severity or the nature of the breach of public safety or order or the threat posed by the foreigner, with due regard to the duration of the foreigner's stay to date and the existence of ties in the federal territory,
- permitted to be in employment, if he or she is an employee,
- possession of any other permits required for the purpose of the permanent pursuit of his or her economic activity,

- sufficient command of the German language (corresponding to level B1 of the Common European Framework of Reference for Languages),
- basic knowledge of the legal and social system and the way of life in Germany and
- sufficient living space for himself or herself and for family members living together in the same household.

Permanent residence permit for skilled workers (conditions set out in section 18c Residence Act)

Skilled workers are to be granted a permanent residence permit provided the following conditions are fulfilled:

- residence title for four years for employment as a skilled worker or as a researcher,
- paid compulsory pension insurance contributions for 48 months,
- sufficient command of the German language (corresponding to level B1 of the Common European Framework of Reference for Languages).

Persons who have completed a degree or vocational training in Germany are to be granted a permanent residence permit provided the following conditions are fulfilled:

- successful completion of a vocational training or a degree in Germany,
- residence permit for two years for employment as a skilled worker (with vocational training or an academic education) or as a researcher,
- paid compulsory pension insurance contributions for 24 months,
- sufficient command of the German language (corresponding to level B1 of the Common European Framework of Reference for Languages).

EU Blue Card holders are to be granted a permanent residence permit provided the following conditions are fulfilled:

- hold an EU Blue Card and 33 months appropriate employment during this time and payment of statutory pension insurance contributions,
- basic command of the German language (corresponding to level A1 of the Common European Framework of Reference for Languages).

EU Blue Card holders with a sufficient command of the German language (corresponding to level B1 of the Common European Framework of Reference for Languages) will be issued with a permanent residence permit after only 21 months.

Permanent residence permit for family members of a German national (conditions set out in section 28 (2) Residence Act)

Family members of a German national are to be granted a permanent residence permit provided the following conditions are fulfilled:

- residence permit for three years
- family unit continues to exist in Germany
- sufficient command of the German language (corresponding to level B1 of the Common European Framework of Reference for Languages).

Permanent residence permit for persons entitled to asylum, persons entitled to international protection and (resettled) refugees (conditions set out in section 26 (3) Residence Act)

Persons entitled to asylum, persons to whom refugee protection has been granted, and (resettled) refugees, are to be granted a permanent residence permit provided the following conditions are fulfilled:

- temporary residence permit for five years,
- subsistence is largely ensured,

- elementary command of the German language (corresponding to level A 2 of the Common European Framework of Reference for Languages),
- basic knowledge of the legal and social system and the way of life in Germany,
- all the permits required to enable you to practice your occupation in the long term (this requirement may also be met by your spouse),
- issuance is not precluded by any grounds concerned with public safety or order.

A permanent residence permit is to be granted after only three years if the person has an advanced command of the German language (corresponding to level C 1 of the Common European Framework of Reference for Languages) and subsistence is for the most part ensured.

Which rights are associated with such permits?

The permanent residence permit entails the right to work. The permanent residence permit is not bound to a specific purpose of residence.

HUNGARY

Document 7517/23 **Articles 1-15**

Art 3. (Scope)

Point g): Hungary strongly supports the proposal of PRES, to include the category of suspended removals.

Art 4. (Duration of residence)

The basic Hungarian position is that 5 years should be kept, without any possibility of cumulating.

For the sake of compromise a 2+3 year version would be acceptable, with 3 essential years spent in the own territory.

In Art. 4(2) we propose to exclude also Art. 3(2) Point e).

Art. 5

Hungary supports the deletion of Article 5(4). We agree with the content of Presidency's discussion paper. Article 5(4) as proposed by the Commission would empty the Member State's room for maneuver. The possibility of taking into account a particularly justifiable circumstances in the field of national policy should be retained.

Art. 7

In relation to Article 7(4), we consider that a time limit should be set as to whether the conditions on resources and sickness insurance can be assessed. We propose a time limit of 5 years in this respect. If more time has elapsed since the national permit (according to Article 14) was issued, the Member State should have the possibility to examine the conditions concerned.

Art. 9

Regarding Article 9(1) we agree with PRES's proposal that an absence for a total period exceeding 24 months within a 5 year period should be a ground for withdrawal.

Art. 12

Regarding Article 12 (2) we support Presidency's proposal. It is appropriate to maintain the current provision of the Directive.

QUESTIONS ON NATIONAL PERMITS OF PERMANENT OR UNLIMITED VALIDITY

- **Does your Member State have national residence permits of permanent or unlimited validity? •**

  If yes, please list the relevant schemes.

  Yes, a *national permanent residence permit.*

- **Are these schemes targeting specific categories of third-country nationals? if so, which categories?**

  The main rule is the following, but there are exceptional rules as well. National permanent residence permits may be issued to third-country nationals holding a residence permit or an interim permanent residence permit for establishing residence in the territory of Hungary, and if:

  a) having lawfully resided in the territory of Hungary continuously for at least the preceding three years before the application was submitted;

  b) a dependent direct relative in the ascending line of a Hungarian citizen or a third-country national with immigrant or permanent resident status or who has been granted asylum, and living in the same household for at least the preceding one year before the application was submitted;

  c) the spouse of a Hungarian citizen, third-country national with immigrant or permanent resident status or who has been granted asylum, provided that the marriage was contracted at least two years before the application was submitted;

  d) the applicant was formerly a Hungarian citizen and whose citizenship was terminated, or whose ascendant is or was a Hungarian citizen;

  e) a minor child of a third-country national with immigrant or permanent resident status or who has been granted asylum.

  Therefore everyone may be eligible for a national residence permit, nevertheless there are preferential rules for certain, above listed (see points b)-e)) categories.

- **What is the aim of such schemes?**

  To ensure permanent resident status for those who lived and integrated in Hungary for the proper period with the proper permit and meet the conditions (e.g. proof of subsistence).

- **Which requirements need to be fulfil to be granted such permits (incl. duration of residence)?**

  Please see the duration of residence above. Further conditions:

  a) must have a place of abode and subsistence in the territory of Hungary secured;

  b) must have full healthcare insurance or sufficient financial resources for healthcare services; and

  c) must be exempt from any reason for rejection set out in the relevant Act.

  Exclusionary conditions:

  a) whose residence in the territory of Hungary constitutes a threat to public security or national security;

  b) who is subject to expulsion or exclusion from the territory of the Republic of Hungary or for whom an alert has been issued in the SIS for the purposes of refusing entry.

  c) who has disclosed false information or untrue facts in the interest of obtaining the permit, or misled the competent authority.

- **Which rights are associated with such permits?**

  Same as with EU LTR.

ITALY

as regards the LTR Directive (recast) and the questions on national permits of permanent or unlimited validity raised in the document CM 2361/23 ("*Does your Member State have national residence permits of permanent or unlimited validity?")*, please be informed that the current Italian legislation no longer provides for unlimited validity but establishes a maximum duration of 10 years for national residence permits.

In addition to the information already provided during the IMEX (Adm.) meeting on LTR held on March 28, please find here below further Italian replies to some of the questions raised in the discussion document (ST 7512/23):

1. *Are Member States still concerned with the deletion in point e?*

   Yes.

2. *If so, in what way? If possible, please give examples of residence permits that in your view no longer would be included in this provision (i.e., no longer excluded from the scope of the Directive).*

   Although unable to indicate specific examples, as indicated in the IMEX meeting the Italian concern related to the deletion of "*or in cases where their residence permit has been formally limited*" in Art. 3, (2), point (e), is that a potential safeguard clause for MS would be eliminated.

3. *Would Member States agree to explicitly exclude third-country nationals whose removal has been suspended on the basis of fact or law from the scope?*

   Italy agrees

4. *Can Member States accept a system where any residence spent as a holder of a long-stay visa or residence permit, even for purposes explicitly excluded from the scope of the directive, are taken into account? If not, which changes to the Commission's proposal would make such a system acceptable (for example the Presidency proposal where only two years of such visas or residence permits, in the Member State concerned, are relevant and some permits are explicitly excluded)?*

Provided that some limits of the current directive are maintained, Italy agrees for TCNs holders of a residence permit, but not for long-stay visa holders.

5. *4. Are Member States in favour of a system with accumulation of residence in different Member States? If not, which changes to the Commission's proposal would make such a system acceptable (for example the Presidency proposal where only permits issued under specific legal migration directives could be cumulated)?*

Italy could be in favour provided that there is the possibility of immediately verifying with the other MS concerned the existence of all the conditions for the issuance of the LTR permit (for example through a common platform for residence permits)

6. *Which control measures do Member States have in place today to make sure that the requirement of legal and continuous residence is fulfilled? Are such control measures conducted before and/or after LTR status is granted?*

In Italy the controls through the databases in use are carried out before granting the LTR status, verifiable by the possession of a residence permit valid for the entire period (currently 5 years).

7. *Can Member States accept an extended period of absence from the territory of the Union if the right balance is struck in the proposal, after the judgment in Case C-432/20?*

Italy doesn't support the Commission's recast proposal to extend the period of absence from the EU territory from the current 12 to 24 months

8. *Can Member States accept that children of long-term residents, born or adopted in the Member State, are granted LTR status without being subject to the conditions set out in Articles 4 and 5 (i.e., instantly), even though this provision appears to be more generous than corresponding provisions for family members of EU-citizens?*

Italy is not in favour of an automatic acquisition of the LTR status for children of a long-term resident who are born or adopted in the territory of the MS.

LITHUANIA (new)

2.1. Art. 3(2)(e)

Questions for Member States to be discussed in IMEX on March 28:

1. Are Member States still concerned with the deletion in point e? If so, in what way? If possible, please give examples of residence permits that in your view no longer would be included in this provision (i.e., no longer excluded from the scope of the Directive).

No, the deletion in point e is acceptable for Lithuania.

2.2. Art. 3(2)(g)

Questions for Member States to be discussed in IMEX on March 28:

2. Would Member States agree to explicitly exclude third-country nationals whose removal has been suspended on the basis of fact or law from the scope?

Yes.

3. DURATION AND TYPE OF RESIDENCE NEEDED TO ACQUIRE LTR STATUS (ART. 4)

In the line of the proposed changes to Article 4, we would like to return to the issue of foreign students. The current Directive provides that only half of the period lived for the purpose of study can be calculated for the 5-year period. We would propose a new exception for residence in an EU Member State for the purpose of study, which would encourage foreigners to complete their studies in a particular MS and to stay there, but at the same time prevent abuse when the purpose of the stay of the TCN is only to stay in the territory of EU Member States. We would like to insert new paragraph to Article 4:

"Regarding the cases covered in Article 3(2)(a) where the third country national concerned has acquired a title of residence which will enable him/her to be granted long-term resident status and has completed his studies or vocational training in Member State, all periods of residence for study purposes or vocational training shall be taken into account in the calculation of the period referred to in paragraph 1. In case the third-country national concerned has acquired a title of residence which will enable him/her to be granted long-term resident status and has not finished his studies or vocational training in Member State, only half of the periods of residence for study purposes or vocational training may be taken into account in the calculation of the period referred to in paragraph 1."

Questions for Member States to be discussed in IMEX on March 28:

3. Can Member States accept a system where any residence spent as a holder of a long-stay visa or residence permit, even for purposes explicitly excluded from the scope of the directive, are taken into account? If not, which changes to the Commission's proposal would make such a system acceptable (for example the Presidency proposal where only two years of such visas or residence permits, in the Member State concerned, are relevant and some permits are explicitly excluded)?

Lithuania in not in favour of PRES suggestion that third-country nationals would only be able to make use of long term visas only for the first two years for the purposes of reaching the required 5 year period. As TRPs are normally issued for 2 years or more, the consequences of such a restriction would be felt by all TCNs who would not be able to change their TRP in time and would have cumulating of the 5 year period interrupted. Therefore in our opinion the legislation should foresee more flexibility for TCN who possess national visas in between of TRP.

4. Are Member States in favour of a system with accumulation of residence in different Member States? If not, which changes to the Commission's proposal would make such a system acceptable (for example the Presidency proposal where only permits issued under specific legal migration directives could be cumulated)?

Yes.

5. LEVEL PLAYING FIELD (ART. 5(4), 7(4), 10(3), 12(7) AND 15(5))

Questions for Member States to be discussed in IMEX on March 28:

6. Are Member States in favour of introducing certain aspects of level playing field in the LTR Directive? If so, in which of the relevant articles?

Lithuania is in favour of national schemes, more flexibility for MS is needed. We are still analysing the provisions, scrutiny reservation on this issue.

6. ABSENCE FROM THE EU TERRITORY (ART. 9(1))

Questions for Member States to be discussed in IMEX on March 28:

7. Can Member States accept an extended period of absence from the territory of the Union if the right balance is struck in the proposal, after the judgment in Case C-432/20?

8. Do Member State agree with the Presidency's approach? If not, which further changes would Member States like to see and why?

Scrutiny reservation on Art. 9(1)(c), we fear that this provision will remain merely declarative and not feasible in practice.

7. Equal TREATMENT (ART. 12(2))

Questions for Member States to be discussed in IMEX on March 28:

9. Can Member States support the PRES proposal to reinsert the derogation permitted by Article 12(2)?

We support Presidency's proposal.

8. ACQUISITION OF LTR STATUS FOR CHILDREN BORN OR ADOPTED IN A MEMBER STATE (ART. 15(1))

Questions for Member States to be discussed in IMEX on March 28:

10. Can Member States accept that children of long-term residents, born or adopted in the Member State, are granted LTR status without being subject to the conditions set out in Articles 4 and 5 (i.e., instantly), even though this provision appears to be more generous than corresponding provisions for family members of EU-citizens?

Lithuania supports the provision that children of long-term residents, born or adopted in the Member State, are granted LTR status without being subject to the conditions set out in Articles 4 and 5.

LUXEMBOURG

QUESTIONS ON NATIONAL PERMITS OF PERMANENT OR UNLIMITED VALIDITY

Does your Member State have national residence permits of permanent or unlimited validity?

Yes.

If yes, please list the relevant schemes.

The long-term resident status.

Are these schemes targeting specific categories of third-country nationals? if so, which categories?

After 5 years of a continuous lawful stay in Luxembourg, third-country nationals (i.e. from a country that is neither an EU Member State nor a country treated as such – Iceland, Norway, Lichtenstein and Switzerland) may submit an application to obtain **long-term resident status** to the Immigration Directorate of the Ministry of Foreign and European Affairs. Long-term resident status can be granted to any third-country national who is lawfully residing in Luxembourg for an uninterrupted period of at least 5 years. The length of the stay is not deemed to be interrupted by:

- temporary absences of less than 6 consecutive months and which do not exceed a total of more than 10 months in 5 years;
- uninterrupted absences of a maximum of 12 consecutive months for important reasons, such as:
  - ✓ pregnancy and childbirth;
  - ✓ a serious illness;
  - ✓ studies or professional training.

The application must be submitted by the third-country national. However, they may mandate a third party, such as the employer, to carry out the necessary procedures for them.

For recipients of **international protection**, at least half the period between the date on which the application for international protection is submitted on the basis of which international protection has been granted, and the date on which the international protection residence permit is granted, or the entire period if this exceeds 18 months, is taken into account for the calculation of the 5-year period.

Holders of an **'EU Blue Card'** residence permit are allowed to add together their stays in different Member States in order to satisfy the requirements regarding duration of stay, if all of the following conditions are met:

- ✓ 5 years of lawful and uninterrupted residence in the European Union as an EU Blue Card holder;
- ✓ 2 years of lawful and uninterrupted residence in the country, immediately preceding the submission of an application for long-term EU resident status, as a holder of an EU Blue Card.

The following third-country nationals staying in Luxembourg may not benefit from long-term resident status:

- ✓ seasonal, seconded or transferred workers;
- ✓ student or person registered in vocational training programmes;
- ✓ person holding a temporary resident permit with a specific limited validity.

Please note that these provisions are not applicable to third-country nationals who are family members of an EU national (or of nationals of a country treated as such).

What is the aim of such schemes?

As foreseen by the Directive on the status of non-EU nationals who are long-term residents, the integration of third-country nationals who are long-term residents in the Member States is a key element in promoting economic and social cohesion, a fundamental objective of the Community stated in the Treaty. The objectives of these schemes are, to ensure that non-EU nationals who have lived in an EU country for at least five years have a permanent and secure residence status grant these non-EU nationals a set of rights that are similar to those enjoyed by EU citizens, in terms of work, education, social security, access to goods and services make it easier for these non-EU nationals to move to other EU countries to work and study.

What are the benefits of permanent residence in Luxembourg?

- ✓ Benefits of a Permanent Residence in Luxembourg.
- ✓ Work in Luxembourg without restrictions. Any gainful employment is permitted.
- ✓ Travel Permit.
- ✓ EU Permanent Residence Permit.
- ✓ Guaranteed Social Security.
- ✓ ...
- ✓ Become a Luxembourgish national.

Which requirements need to be fulfil to be granted such permits (incl. duration of residence)?

Prerequisites

In order to submit their application, the third-country national must:

- ✓ have continuously and lawfully resided in Luxembourg (i.e. have a residence permit) for at least 5 years;
- ✓ hold a valid passport;

- ✓ have stable, regular and sufficient resources to support themself and the family members under their care, without having to resort to social welfare (REVIS);
- ✓ have suitable housing;
- ✓ have a health insurance certificate for himself and his family;
- ✓ not constitute a threat to public order or public safety.

The application for long-term resident status must be submitted immediately at the end of the 5-year residence period.

Third-country nationals must apply for long-term resident status to the Immigration Directorate of the Ministry of Foreign and European Affairs.

The following documents must be sent together with the renewal application form:

- a copy of the valid passport, in its entirety;
- proof of stable, regular and sufficient financial resources (e.g. employment contract, tax return) for the 5 years preceding the application, without having benefited from the social welfare system (REVIS), and assessed by comparison with the social minimum wage for unskilled workers;
- proof of suitable housing (e.g. rental agreement, property deed) ;
- a recent certificate of affiliation (social security registration certificate) for the past 5 years and issued by the Joint Social Security Centre;
- a health insurance certificate for the applicant and his family (certificate of co-insurance);
- a recent extract of their Luxembourg criminal record;
- any document proving the applicant's integration in the Luxembourg society (e.g.: certificate of language courses, club member card, testimonial evidence);

– proof of payment of a fee of EUR 80 to account IBAN LU46 1111 2582 2814 0000 (BIC: CCPLLULL, beneficiary: Ministère des Affaires étrangères, Direction de l'Immigration; Communication: titre de séjour dans le chef de 'insert your name here').

where necessary,

– a power of attorney.

Power of attorney: third-country nationals may mandate a third party (e.g. the future employer) to submit the application in their place. In this case, the mandate holder, with the exception of attorneys, must provide proof of their mandate in the form of a written power of attorney, duly dated and signed by the principal. The signature must be preceded by the handwritten note 'bon pour procuration' (good for proxy).

After receiving the application, the Immigration Directorate will provide a **receipt**, which **acts as a temporary authorisation to stay** until the 'long-term resident' permit is issued, in the event that the previous residence permit expires during the application processing period. Please note, however, that this receipt cannot be used as a travel document, and is therefore **valid only in Luxembourg**.

The Ministry of Foreign and European Affairs has a **legal requirement to respond** within a **maximum period of 6 months**. If no response is received within this time limit, the applicant can consider that their application has been denied.

Validity and renewal of the residence permit

The residence permit is valid from the date of the decision to grant such permit. It is renewable on request as long as the eligibility conditions are met.

Please note: third-country nationals with a 'long-term residence permit - EU' who intend to leave Luxembourg for more than 6 months must return their residence permit to the Ministry of Foreign and European Affairs and make a declaration of departure at the administration of the commune where they resided. Long-term resident status will be withdrawn after an absence from the European Union of 12 months, or 24 months if the person concerned was previously a holder of an EU Blue Card, or after absence from Luxembourg of 6 months.

Validity: The 'long-term resident permit – EU' is valid for a period of 5 years.

Renewal procedure: In order to renew a residence permit, third country nationals must apply to the Immigration Directorate of the Ministry of Foreign and European Affairs within 2 months prior to the expiry date of the residence permit. The application for renewal must be filed using a special form and must be accompanied by the following documents:

- ✓ a copy of the valid passport, in its entirety;
- ✓ a recent extract of their Luxembourg criminal record;
- ✓ proof of payment of a fee of EUR 80.

Which rights are associated with such permits?

The rights, associated to these schemes are to ensure that non-EU nationals who have lived in an EU country for at least five years have a permanent and secure residence status grant these non-EU nationals a set of rights that are similar to those enjoyed by EU citizens, in terms of work, education, social security, access to goods and services make it easier for these non-EU nationals to move to other EU countries to work and study.

MALTA

Malta maintains a scrutiny reservation on the overall compromise text and is proposing some remarks and observations on various recitals and articles as follows:

Recital 10

With regard to recital (10), periods of residence spent as a student, or under national residence schemes, should not count towards the period spent in a MS relevant for the allocation of LTR status, or at least not in their entirety. Reservations are also expressed in relation to Article 4(5), which also deals with this concept. One possibility would be to count, for the purposes of LTR, only 50% of the time spent as a student, under national residence schemes etc.

Recital 11

Recital (11), which lays down that Member States may not establish a minimum reference income amount to determine whether a TCN has sufficient resources to qualify for LTR is problematic to implement and would place an undue degree of discretion on individual officers. Furthermore, the notion that resources may also be made available by a third-party is unclear and far too broad, and may thus expose applicants to situations of debt bondage by abusive third parties willing to exploit such a provision.

In addition, the requirements mentioned in this recital pertain to family reunification applications. There should be a distinction between applications for family reunification and applications for long-term residence status.

Article 3

Malta does not have any objections to the inclusion of the following paragraph (g):

'whose removal has been suspended on the basis of fact or law.'

However, Malta does not agree with the deletion: 'formally limited'.

Article 4(1)

Malta calls for any period of legal and continuous residence spent as a holder of a long-stay visa or residence permit not to be considered for the purpose of calculating the period of five years.

Article 4(3)

Article 4(3) allows prospective LTRs to accumulate residence in different MSs, so long as they spend three years in the Member State where they eventually apply for LTR. In practice, the implementation of this provision will be complicated, which would place undue administrative burdens on all Member States due to the information that would be required to proof such residence and translations may be required for official documents. It is questionable, therefore, whether the Directive should allow for the granting of LTR on the basis of residence accumulated in different Member States. This idea may also place some Member States at a disadvantage, in that they would lose third country employees to other Member States where wages are generally higher. Therefore, a period of residence in another Member State should not be considered for the purpose of accumulation of residence.

Moreover, this provision should not be extended to Directive 2014/36/EU on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers.

Article 4(5)

Periods of residence spent as a student, or under national residence schemes, should not count towards the period spent in a Member State relevant for the allocation of LTR status, or at least not in their entirety. One possibility would be to count, for the purposes of LTR, only 50% of the time spent as a student, under national residence schemes etc.

Article 5(1)(a)

Malta would like to propose the addition of a new proviso to article 5(1)(a), as follows:

"Provided that third party resources are regular, stable, and registered to the tax authority."

The purpose of this amendment is to ensure that the source of income deriving from third parties is both stable and legitimate; and that it does not place the applicant in a situation of vulnerability and dependence on the third party.

Article 5(2)

Malta would like to propose the following amendment to article 5(2):

"For the purpose of paragraph 1, point (a), Member States shall evaluate the stable and regular resources by reference to their nature and regularity and may take into account the level of minimum wages and pensions prior to the application for long-term resident status. Member States may indicate a certain sum as a reference amount."

The purpose of this amendment is to ensure that the minimum threshold, such as the minimum wage, is in place in order to ensure that all applicants are treated equitably and fairly; and that no undue discretion is left to individual officers assessing cases.

Article 5(3)

This article enables Member States to require third-country nationals to provide evidence that they have, for themselves and for dependent family members, evidence of appropriate accommodation. Malta would like to enquire whether a long-term residence status can be refused on grounds of failure to provide the necessary evidence of appropriate accommodation.

Article 7(2)

Malta calls for an additional amendment as follows:

'In addition to checking the documentary evidence submitted by the third-country national concerned, the competent authorities of the Member States may exchange information for the purpose of verifying compliance with the requirements of Article 4(3) regarding the periods of legal and continuous residence within the territory of other Member States. Member States receiving such a request for information **shall endeavour** to reply within 1 month.'

Article 12(1)(f)

Allowing access to private housing as well as access to procedures for obtaining housing is highly problematic. Malta suggests that access should be limited to private housing in view of the fact that Malta is not in a position to guarantee access to housing due to its territorial limitations. Access to public housing should not be mandatory but should be left at the discretion of the Member State concerned.

To this effect, Malta is proposing the following text:

'access to goods and services and the supply of goods and services made available to the public, including access to private housing'.

Article 15

Malta does not object to this article as long as, the requirements mentioned in Directive 2003/86/EC are being adhered to.

THE NETHERLANDS

Question of the Presidency regarding Art. 4(2)

Everyone living in the Netherlands is obliged to register with the municipality where he lives. The municipality registers the person concerned in the Key Register of Inhabitants.

If someone will leave the Netherlands for more than four months, he is obliged to inform the municipality, which will terminate the registration in the Key Register of Inhabitants.

In case of a third-country national the municipality will send automatically a message to the Immigration and Naturalization Service (INS). As result of this message the INS will consider if an application for a residence permit will be rejected or if a granted residence permit will be withdrawn because the third-country national no longer resides in the Netherlands.

However, this system depends largely on the willingness of the third-country national to inform the municipality about his departure from the Netherlands. If he does not inform the municipality, his registration will be continued and the INS will not receive a message from the municipality.

QUESTIONS ON NATIONAL PERMITS OF PERMANENT OR UNLIMITED VALIDITY

The Netherlands has a national permit for permanent residence; this permit has a validity of five years and can be renewed.

The conditions for receiving this national permit and the rights the holder of the national permit derives from this permit are the same as the conditions and rights related to the long-term residence status.

However, there is only one difference: a third-country national could obtain the national permit for permanent residence without a test on sufficient resources after ten years of legal residence. For the third country national applying for the status of long-term residence such an exception to the test on resources does not exist.

So the Netherlands would propose a provision in the recast of the long-term residence directive that make such an exception also possible.

Written proposals of the Netherlands

Art. 5 (1)(a)

The Netherlands proposes to change the phrase 'also made available by a third party' in the phrase 'not made available by a third party'.

Explanation:

According to the ruling of the EU Court of Justice, resources made available by a third party, should be taken into account.

However, in practise this is very hard to assess. The third party is often a family member abroad who made an agreement on financial assistance with the applicant of the long-term residence status. The status of this agreement is unclear and it could be terminated at any time. It is also very difficult to assess the financial position of the third party himself to understand how stable this position is.

From the applicant of the status of the long-term residence status may be expected that he is integrated in the host society to a certain extent and that he should be able to have sufficient stable and regular himself.

Therefore the Netherlands proposes to make clear that only the own resources of the applicant of the long-term residence status should be applied as condition in art. 5, par. 1, sub a.

Art. 5 (4) new

Member States may not apply paragraph 1, sub a, of this Article in case the third-country national has resided legally on the territory of the Member State for at least ten years.

Explanation:

If a third-country national does not have sufficient resources he never could receive the status of long-term resident. So, he has to rely always on a temporary residence permit with less certainty about the continuation of his residence. This could be disadvantageous for him and his family. Therefore Member States should have the opportunity to refrain from the check on sufficient resources if the third-country national has resided legally on the territory of the Member State for at least ten years.

Par. 6 Art. 9(1)(c)

The Netherlands proposes to change sub c in: in the event the EU long-term resident does no longer have his main residence on the territory of the Union during at least 36/42/48 consecutive months within a five year period.

And the following recital should be added:

Recital

To maintain his connection with the Union the long-term resident should have his main residence on the territory of the Union during a certain period of time (it depends on the duration the long-term resident is allowed to be absent, 12, 18 or 24 months – that has still to be decided). Main residence could be proven by facts as he works, has housing, pays his taxes and premiums and /or has his family residing on the territory of the Union.

Explanation:

The proposed text by the Presidency seems to be rather difficult to implement as months of absences are hard to check, especially if they are not consecutive. There is not yet an EU data system that registers all temporary departures from the territory of the Union. So in stead of checking the absence from the territory of the Union, it6 looks easier to have a period of presence as condition for keeping the status of long-term residence status.

Article 15 (2)

The Netherlands proposes to delete the phrase ´but only after the persons concerned have been granted family reunification´.

Explanation:

Integration of family members from outside the EU is very important. It is important for the Member State that will give residence to the third country nationals as it improves their chances of participation in the society. And it is important for the family member him-/herself and also for the children within the family. To increase the level of integration and participation an integration test abroad before the admission to the territory of the Member State is highly desirable. As the same procedure applies to third country family members of a Dutch citizen, a third country family member of a third country national should also pass an integration test containing a low level of knowledge of the Dutch language and Dutch society before a residence permit for family reunification can be issued. Of course integration measures after the admission of the family member are useful but they cannot replace the integration conditions before the admission as they could not have consequences for the residence. So, it is important that Member States should retain the opportunity to require integration conditions and measures before the admission.

ROMANIA

- **Art. 3(2)(e)**

1. *Are Member States still concerned with the deletion in point e? If so, in what way? If possible, please give examples of residence permits that in your view no longer would be included in this provision (i.e., no longer excluded from the scope of the Directive).*

   We can accept the deletion in point e *"or in cases where their residence permit has been formally limited"*, given the European Commission's explanations within the document 7518/23.

- **Art. 3(2)(g)**

2. *Would Member States agree to explicitly exclude third-country nationals whose removal has been suspended on the basis of fact or law from the scope?*

   Yes, we could agree to explicitly exclude this category from the scope of the Directive.

- **Art. 4(3)**

3. *Can Member States accept a system where any residence spent as a holder of a long-stay visa or residence permit, even for purposes explicitly excluded from the scope of the directive, are taken into account? If not, which changes to the Commission's proposal would make such a system acceptable (for example the Presidency proposal where only two years of such visas or residence permits, in the Member State concerned, are relevant and some permits are explicitly excluded)?*

4. *Are Member States in favour of a system with accumulation of residence in different Member States? If not, which changes to the Commission's proposal would make such a system acceptable (for example the Presidency proposal where only permits issued under specific legal migration directives could be cumulated)?*

With regard to the possibility of cumulating the residence periods in different Member States in order to establish a total residence of 5 years (art. 4), we consider that clear deadlines should be established for the response of the contact points regarding the verification of the residence continuity and legality, including the number of days/months spent in the respective Member State.

At the same time, we consider it sufficient that the residence in another member state that will be taken into account when establishing continuity refers to the residence spent as a holder of long-stay visa or residence permit issued under specific legal migration Directives (eg: highly qualified, ICT).

- **Art. 4 (3)(a)** – we do not agree with the accumulation of the residence obtained under de Directive EU 36/2014.

- **Art. 4(4)**

5. *Which control measures do Member States have in place today to make sure that the requirement of legal and continuous residence is fulfilled? Are such control measures conducted before and/or after LTR status is granted?*

Regarding the proposal to amend the Directive on long-term residents which introduces consolidated checks to ensure that the requirement regarding legal and continuous residence is not circumvented by residence schemes for investors, we specify that even at present, the national legislation in force (*art. 70 and art. 71 of GeO 194/2002 republished, with subsequent amendments and completions*) regarding the right of long-term residence granted in Romania for foreigners who have made, according to their own participation quota, investments of at least 1,000,000 euros or have created more than 100 full-time jobs, if, at the application date, they hold a right of temporary residence or they are beneficiaries of international protection in Romania.

Also, the mandatory conditions for obtaining the right of long-term residence ensure that the applicant does not present a danger to national security, does not constitute a threat to public order, he/she has social health insurance, he/she legally owns an accommodation place and knows the Romanian language, at least at a satisfactory level.

In order to establish that the investment is real, the investor must present a certificate issued by the National Office of the Trade Register, the accounting balance sheet or expertises approved by the Romanian Entity of Accounting Experts and Authorized Accountants or Romanian National Association of Authorized Evaluators. For the verification of the minimum 100 full-time jobs, a confirmation from the Labor Inspection - territorial labor inspectorates is requested.

- 6. *Are Member States in favour of introducing certain aspects of level playing field in the LTR Directive? If so, in which of the relevant articles?*

  At national level, residence permits can also be granted based on exceptions to the LTR Directive. For example: foreigners with Romanian origin are exempt from fulfilling the conditions for granting LTR status, less in terms of national security and public order. Thus, we consider it appropriate that the third-country national, after a period of time spent on the basis of the national long-term residence permit (eg 5 years), could have the possibility to request the issuance of an EU long-term residence permit without the need to analyze a new long-term residence applications (application to grant access to the EU long-term residence permit).

• **Article 7(2) paragraph 2** - we appreciate that the suspension of the settlement deadline could be extended to 3 months in order to cover the period related to receiving the response and subsequent analysis.

• **Article 7(2) paragraph 4** – we agree with the Presidency's proposal and we appreciate the introduction of the exchange of information between member states (position supported by RO at previous meetings).

7. Can Member States accept an extended period of absence from the territory of the Union if the right balance is struck in the proposal, after the judgment in Case C-432/20?

8. *Do Member State agree with the Presidency's approach? If not, which further changes would Member States like to see and why?*

We could accept the 24-month deadline in relation to Case C-432/220, but we believe that the PRES SE approach will be more difficult to manage în practice, concerning the administrative burden. Given that the calculation of an absence of 24 months in a 5-year period would also complicate the data scheme provided for in point 5 paragraph 4 of the proposed form, we prefer to maintain the COM version, respectively the 24-month term to be a successive one.

- *9. Can Member States support the PRES proposal to reinsert the derogation permitted by Article 12(2)?*

Scrutiny reservation on art. 12(5) and 12(7).

- *10. Can Member States accept that children of long-term residents, born or adopted in the Member State, are granted LTR status without being subject to the conditions set out in Articles 4 and 5 (i.e., instantly), even though this provision appears to be more generous than corresponding provisions for family members of EU-citizens*?

We can accept granting this status to the children of long-term residents without fulfilling the conditions set out in art.4 and 5.

QUESTIONS ON NATIONAL PERMITS OF PERMANENT OR UNLIMITED VALIDITY

- *Does your Member State have national residence permits of permanent or unlimited validity?*

In Romania are issued long-term residence permits that do not contain the phrase provided for in Directive 109/2003.

- *If yes, please list the relevant schemes.*

  These permits are not issued under a specific scheme. They are valid for either 5 years or 10 years, as the case may be, and are issued to foreigners who, mainly, do not have a continuous stay of 5 years in Romania, but are exempted by law from fulfilling this condition.

- *Are these schemes targeting specific categories of third-country nationals? if so, which categories?*

  These types of permits can be issued, in principle, to: citizens of Romanian origin; foreigners whose residence is in the interest of the Romanian state; minors whose one or both parents have long-term residence in Romania; foreigners who have made, according to their own participation quota, investments of at least 1,000,000 euros or have created more than 100 full-time jobs. However, in all these exceptional situations the condition that they do not present a danger to national security or public order is imperative.

- *What is the aim of such schemes?*

There is no specific purpose for which this type of permit is issued. For example, granting long-term residence for foreigners of Romanian origin is an exception specific at national level.

- *Which requirements need to be fulfilled to be granted such permits (incl. duration of residence)?*

  For foreigners of Romanian origin or those whose residence is in the interest of the Romanian state, the cumulative conditions to obtain such a permit are:

  - to be holders of a residence right on the national territory both at the time of the request and at the settlement date;
  - do not present a danger to national security and do not constitute a threat to public order.

  For minors whose one or both parents have long-term residence in Romania:

  - to be holders of a residence right on the national territory both at the time of the request and at the settlement date;
  - do not present a danger to national security and do not constitute a threat to public order;
  - to prove the kinship bond;
  - if only one parent has a long-term residence, the consent in authentic form of the other parent is necessary.

  For foreigners who have made, according to their own participation quota, investments of at least 1,000,000 euros or have created more than 100 full-time jobs:

  - to be holders of a residence right on the national territory both at the time of the request and at the settlement date;
  - to provide proof of social health insurance;
  - to prove the legal ownership of an accommodation place, according to the law;
  - to know the Romanian language at least at a satisfactory level;

- do not present a danger to national security and do not constitute a threat to public order;

- in order to establish that the investment is a real one, the investor must submit a certificate issued by the National Trade Register Office, the accounting balance sheet or expertises approved by the Romanian Entity of Accounting Experts and Authorized Accountants or Romanian National Association of Authorized Evaluators. For the verification of the minimum 100 jobs, a confirmation from the Labor Inspection - territorial labor inspectorates is requested.

- *Which rights are associated with such permits?*

Holders of these permits benefit, under the law, from equal treatment with Romanian citizens in terms of:

- access to the labor market, including employment and work conditions, to independently economic activities and to professional activities, with the appropriate application of the special legislation provisions regarding carrying out the economic activities by authorized natural persons, individual enterprises and family enterprises, provided that the activity carried out does not, even occasionally, involve the exercise of some prerogatives of the public authority;

- access to all forms and levels of education and professional training, including granting of scholarships;

- the equivalence of studies and the recognition of diplomas, certificates, competence certificates and professional qualifications, in accordance with the regulations in force;

- social security, assistance and social protection;

- public health assistance;

- global income tax deductions and tax exemptions;

- access to public goods and services, including real estate;

- freedom of association, affiliation and membership in a trade union or professional organization.

At the same time, we specify that the rights of beneficiaries of international protection in Romania provided for by the asylum law cannot be limited as a result of obtaining the right of long-term residence by them.

THE SLOVAK REPUBLIC

ST 7517/23

Articles 1-15

- The Slovak Republic applies a scrutiny reservation to the deletion of **Art. 3, par. 2, letter e)** "*or in cases where their residence permit was formally limited"*

- The Slovak Republic agrees to explicitly exclude from the scope of the LTR directive nationals of third countries whose deportation has been suspended on the basis of fact or law. The question remains whether this applies to decisions that are unenforceable as well, such as when the decision on return is invalidated (for example, when a person is granted a tolerated stay, obtains asylum, or obtains subsidiary protection), or when the decision is not implemented (e.g. when the individual does not possess a valid travel document.) In addition, we support the Czech Republic's proposal to include time of execution of imprisonment in this exclusion.

- The Slovak Republic can agree to the compromise proposal of the SE Presidency, stating that only the first two years of any authorized and continuous residence of third-country nationals as holders of long-term visas or residence permits in a member state will be allowed to determine the 5-year period for which authorization and continuous residence is required.

  At the same time, we agree that if stays are cumulated, it concerns only stays according to Art. 4 par. 3 of the Presidency's compromise proposal (legal and continuous residence in another Member State with a permit issued under Directive 2014/36, Directive 2014/66, Directive 2016/801 or Directive 2021/1883).

  We have, however, a question, how can it be verified in practice?

- It is possible for the Slovak Republic to agree to the cumulation of stays in different member states; however, it is essential to clarify how the cumulation of stays will be demonstrated and how information will be exchanged between member states. An effective information system is required for this purpose, from which it will be possible to find out and verify the length of stay of foreign nationals. The Slovak Republic cannot agree to the proposed cumulation of stays if the method of exchanging information between members states cannot be resolved effectively.

  Moreover, the Slovak Republic expresses concerns about the possibility of proving continuity of residence since the entry-exit system is currently unavailable

  We agree with the presidency's proposal to only accumulate stays, or residence permits issued under specific legal migration guidelines (and not national law).

  In addition, we support the proposal of the presidency regarding the requirement that a third-country national (applicant for long-term residence status) reside in the member state where the application is submitted for the past three years.

- For the purpose of monitoring and verifying the fulfillment of the requirement of legal and continuous residence for 5 years, the Slovak Republic believes that the entry-exit system is the most appropriate approach.

  As a current measure, we use information from available national systems (the history of the stay of a foreign national on the territory of the Slovak Republic), however, this information cannot be verified in detail.

- The Slovak Republic is fundamentally opposed to extending the period of absence from the original 12 months to 24 months. An absence period of 24 months from the territory of an EU member state, especially if the national is staying in his country of origin, i.e. completely outside the EU territory, seems excessive. In such an extended period of time, various changes may occur in the lives of long-term residents, so we believe that it is necessary to verify the minimum level of security.

  Meanwhile, we would like to point out that such persons are not included as a category in the entry-exit system, which means that their continuity of stay cannot be verified. What would be the means of verifying it in practice?

SLOVENIA

QUESTIONS ON NATIONAL PERMITS OF PERMANENT OR UNLIMITED VALIDITY

Does your Member State have national residence permits of permanent or unlimited validity?

Yes.

If yes, please list the relevant schemes.

Certain categories of foreigners can obtain a permanent residence permit before fulfilling the condition of five years of legal and continuous residence in the territory of the Republic of Slovenia.

Are these schemes targeting specific categories of third-country nationals? if so, which categories?

Yes, special categories of foreigners, who can obtain a permanent residence permit earlier are:

- **a foreigner whose residence in the Republic of Slovenia is of national interest,**
- **a foreigner of Slovenian descent,**
- **family members of a foreigner, who possesses a permanent residence permit or a refugee status in the Republic of Slovenia (permit can be obtained after 2 years of legal residence in the Republic of Slovenia),**
- **a foreigner, who is a family member of a EU citizen that has an issued permanent residence registration certificate (permit can be obtained after 2 years of legal residence in the Republic of Slovenia),**
- **a foreigner, who is a family member of a Slovenian citizen (permit can be obtained after 2 years of legal residence in the Republic of Slovenia).**

What is the aim of such schemes?

The aim is faster arrangement of long term status for certain categories, which are entitled to gain a permanent residence permit earlier than in five years.

Which requirements need to be fulfil to be granted such permits (incl. duration of residence)?

- **A certain length of stay,**
- **impunity,**
- **adequate means of subsistence,**
- **health insurance,**
- **a valid travel document.**

SPAIN

Firstly, Spain would like to thank the PRES for the fresh approach to the LTR directive recast through a working document, that the PRES shared and the Member States discussed during the last IMEX meeting. Spain highly appreciated it, as it offered a chance to view the articles from a different perspective and thus leave more room for constructive and fruitful discussions.

Having said that, please find enclosed Spain's input, following the request for written contributions for the compromise text 7517/23 on the Proposal for a Directive of the European Parliament and of the Council on concerning the status of third-country nationals who are long-term residents (recast).

Articles 1-3

We agree with the compromise text.

Article 4

We appreciate the exercise carried out by the PRES, particularly in this article, which is extremely important, but at the same time, we share the concerns raised by our colleagues, especially of a practical nature, regarding the mechanisms for calculating the periods of residence in different MS, including absences.

In this regard, although the compromise text was a determined attempt to combine different national sensitivities, it risks making EU long-term permit even more complicated than the current one, for several reasons.

For us, there seems to be an inconsistency between the new Article 4.1 and its combination with 4.3. Firstly, from the wording of the articles it is not clear that article 4.1 applies to periods of residence in only one MS, whereas article 4.3 would apply to periods of residence in several MS, so we suggest to re-word these articles to make it more clear.

Moreover, as we said, it seems to us that it generates an inconsistency between, on the one hand, the regime of article 4.3 with regard to the accumulation of periods in other Member States, from which national permits are eliminated and in which the periods as holders of permits excluded from the scope of the directive do not seem to be taken into account in any way, and, on the other hand, article 4.1, which considers and accepts them, but only during the first two years. It seems a bit complex, more complex than the current system.

Specifically, article 4.1 says that the first two years of residence in the EU with any residence permit or long-term visa, national or EU, will be taken into account, except those referred to letters D (asylum seekers), F (diplomats) and G (suspended expulsion). Regardless of anyone's opinion about this proposal, for us, according to the wording in article 4.1, it is not clear what would happen with the following 3 years. So, we suggest this aspect be also clarified.

On a whole, we prefer the previous wording. In our opinion, it was already balanced as it was expressly stated that these periods of residence (students, beneficiaries of protection) computed "provided that the third country national had acquired a residence status that enabled him/her to acquire the long term" (as is the case of a student who finds a job after having studied and holds such authorization, or of a family member or a beneficiary of international protection) and were the last two years where the applicant had to reside in the MS in which they apply for the long term residence authorization instead of three (for the sake of coherence too, as Blue Card holders have to reside 2 years in the MS in which they apply for LTR, not three).

Perhaps an alternative compromise formula could be to eliminate some more of the permits excluded from the scope of the computation, e.g., seasonal workers, that are unlikely to qualify, since it requires a continuity of residence that seems difficult to achieve.

In the case of students, however, we believe that the previous wording improved the integration and access to employment or education of these third-country nationals with long term legal residence.

Articles 5 to 8

We could agree with the compromise text.

However, we suggest that, in article 7, if the one-month period for getting an answer from another MS reaches to its end and the MS has not answered the request, a decision be made with the documentation provided by the applicant. Most of the times it will be enough information (proving periods of legal and continuous residence in other MS can be done by the applicant too), and, if the applicant is presenting fraudulent documents and that can be confirmed further on -when the MS answers the request- according to the directive, the permit could be withdrawn.

Articles 9-11

Spain supports the 24-month absences, and, whereas we understand that it is very important to establish some form of control to avoid certain abuses, we do not think it is fair to limit it in a 5-year period. It would be necessary to find another way to limit these abuses, for example, by adding a clause stating that it is not considered residence as LTR in order to keep the status if the LTR-holder does not reside at least 183 days per year on EU territory (emulating fiscal provisions).

The actual residence could be checked when it is time to renew their card, for example, or when there are indications of abuse.

So, all in all, we think there is no need to further complicate the calculation of periods of absence and its limitations, and it is an asset to attract and retain talent, whereas the control of the abuses regarding periods of non-residence could be tackled through other provisions, as suggested.

Articles 12-14

We could agree with the compromise text.